

817 62 THE
AUTHORITY, JURISDICTION
William AND Jones
Method of Keeping
County-Courts,

Courts-Leet, and Courts-Baron.

Explaining the Judicial and Ministerial Authority
O F

S H E R I F F S.
A L S O,
The Office and Duty
O F A
C O R O N E R.

By WILLIAM GREENWOOD, Gent.

The Eighth Edition, very much enlarged, by adding the
Form and Method of holding a Court of Survey,
new Law Cases, Precedents of Presentments and
Surrenders, Declarations, Pleadings; with a Table
of the Fees, &c. rendering it more useful to Under-
Sheriffs, County-Clerks, Solicitors, Court-Keepers, &c.

O

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THE

PREFACE.

THE Alterations that have been
made in the Latin reading to
Court and Court-reading occasioned a
Necessity of revising this work Book
of the Latin Mass Additi-
tions have been made throughout
to the work itself in this form complete
as far as possible. For this purpose an
old Latin concordance has been used
and the readings in this very good super-
ior to those in the old Edition.
The Latin in this is C. S. And the
same in the former work were given
in full according to the present
Book, except

FEB 7 1912

P R E F A C E.

THE Alterations that have been made in the Laws relating to Courts and Court-keeping, occasion'd a Necessity of revising this whole Book, and of making such necessary Additions and Alterations as might render it the most useful and most compleat of any on this Subject; for this Purpose all the Old Laws concerning Military Tenures, tho' retain'd in the last Edition, are omitted in this, they being taken away by the 12 Car. 2. And the Acts of Parliament that have been made since concerning Sheriffs, are inserted verbatim in their proper Places. The later Part of this Book, which

The Preface.

treats of Courts, is almost wholly new; most of the Cases that are in the Report-Books, concerning Courts or Copyholds being inserted: There is also added to this new Edition, the Form and Method of holding a Court of Survey; and that nothing might be wanting to render this the most compleat System of the Law concerning Courts, several New Precedents of Presentments and Surrenders are placed at the End of that Part of this Treatise which more particularly relates to Courts. Lastly, The Court-Leet of Westminster having a mixed Jurisdiction, viz. as a Court-Leet, and also a particular Power given by an Act of Parliament which is not printed in the Statute-Book, 'twas thought fit to print that Act as a proper Appendix to the Whole.

.160.

Of the ORIGINAL OF SHIRES AND SHERIFFS, And the first INSTITUTION OF THE County-Court.

SHIRE is a Saxon Word, and is the same Signification with the Latin Word *Partiri*, as saith Mr. Lambard in his Explanation of the Saxon Language; and Mr. Camden in his Britannia reporteth, That Alfred (a Saxon) King of England, was the first that divided this Kingdom into Shires, those Shires into Ridings, and those Ridings into Wapentakes or Hundreds, &c. Likewise as Sir Henry Spelman in his Glossary saith, *Sunt qui Comitatum distinctiones sub Berengariis & Otbonibus, vel sub Carolo magno apud exterios occidisse opinantur; quad de plurimis sorte verum fuerit, nonnullae autem antiquius deprehenduntur.* Rem apud nos perspicuum fecit Ingulphus, si sana fides. Rex Alfredus, alias Alredus & Ealfridus, qui regnum initit anno 871. socius (ingens) Angliae pagos & provincias in

Division
the King-
dom into
Shires, &c.

County-Court.

Comitatus primus omnium communavit; Comitatus in Centuria & Hundredas & in decennas, (id est) tithingas, divisit. Which Authorities sufficiently prove the Original of Shires and their Divisions.

Shires governed by Sheriffs.

Derivation of the Word.

This Kingdom being thus dissected into Shires, every Shire is, by Letters Patent from the King, to be governed by one Officer call'd a Sheriff or Shire-Reeve, (*Vicecomes*) compounded of two Saxon Words, which signifie a Governor of the Shire. Mr. Camden thus describes his Office: *Singulis vero annis nobilis aliquis ex incolis preficitur, quem Vicecomitem quasi Piaarium Comitis & nostra lingua Sheriff, viz. Comitus praeponit vocamus; qui etiam Comitatus vel Provincia Questor recte dici potest. But in Selden's Jani fol. 53, 54. you have two Governors of the Shire assigned, where he saith, Praefectus Provinciarum qui ante a vice Domini (ad Ingulphum reversus est Aluredum) in duo officia divisit, 1. in Judices, quos nunc Justiciarios vocamus, & in Vicecomites, qui adhuc idem non retinent. Facebat ergo Polydorus Urbinas, qui primos a Normannis petit Vicecomites, which we now call Vicount & Vicecomite, which cometh from our Conquerors the Normans, as Sheriff from our Ancestors the Saxons. Also Sir Henry Spelman in his Glossary saith, Quinam autem nunc essent Magistratus quos Ingulphus hic vocat Justiciarios & Vicecomites, non plane asequor. Reor Aldermannii Provinciarum & Grevii; de Grevii iamen munere nec habeo definitum; discrepare enim videtur a Vicecomite, quod hic adhuc Comitis esset Vicarius, ille Regis Officialis; unde in Anglo-Saxonum legibus atque ipsius Aluredi, Grevius Regis, vel (ut Latine sapius redditur) Præpositus Regis appellatus est. And that he is Governor of the County, the Words of his Patent import as much, viz. Commisimus tibi custodiam Comitatus nostri Eborum; so that he is an Officer of great Antiquity, Trust and Authority, having from the King the Custody, Tuition and Command of the whole County. Co. l. 4. 33. Milton's Case.*

County-Court when instituted.

Its Jurisdiction.

Who were Judges thereof.

King Alfred, at the Divisions of the Kingdom into Shires or Counties, instituted this Court called, *The County-Court*, and established Jurisdiction in it; granting Power and Authority to the Sheriff to hear and determine such Matters as should be brought unto him. This Court, or rather the Sheriff's Turn, held in every Wapentake, (as it is recorded by Mr. Selden in his Treatise of Tithes) was jointly exercised by the Bishop of the Diocese, and by the Sheriff or Alderman of the Scyresgemot, or Hundred or County Court, where the one sate to give God his Right, the other for publick Right, that is, the one to judge according to the Laws of the Kingdom, the other to direct according to Divinity. And Sir Henry Spelman in his Glossary saith, *Comitatum simul regebant, pariterque in foro confidentes, judicia publica exercebant, hic secundum jus humanum, ille vero divinum. L. L. Canuti M. S. cap. 44. habebatur ter in Anno Burgesmotus (i. e. Civitatis Conventus) & Schiresmotus (i. e. pagi, vel Comitatus Conventus) bis nisi sepius opus sit: & inter se Episcopus & Aldermannus, & decant ibi Dei rectum & seculi: uterque scilicet pro suo*

Suo munere. Idem Ladgori L. L. cap. 5. sed pro Aldermannis, illic Comes exiit (at supra demonstravimus) & utrumq; recte. Nam in comitatu final considile reor, Comitem qui Reipub. partes iueretur; Episcopum, qui Ecclesie; & Aldermannum, qui legem diceret & exponeret. But at the Norman Conquest this kind of holding Ecclesiastical Pleas in the Hundred or County Court was taken away, as may appear by this Mandate of William the Conqueror, recorded in Seld. Jani lib. 2. fol. 76. *Willielmus Dei gratia Rex Anglorum, Comitibus, Vicecomitibus & omnibus Francigenis, & Anglis qui Episcopatu Remigii terras habent, salutem. Scitis vos omnes & ceteri fideles, qui Anglia manent, quod Episcopales leges, quae non bene, nec secundum sanctorum Canonum precepia, usque ad mea tempora in Regno Anglorum fuerunt, communi consilio Archiepiscoporum meorum, & ceterorum Episcoporum, & Abatum & omnium Principum Regni mei emendandas judicavi. Propterea mando, & Regia Authoritate præcipio, ut nullus Episcopus vel Archidiaconus de legibus Episcopatis amplius in Hundredo placita teneat, nec causam, que ad regimen animalium pertinet, ad judicium secularium hominum adducant, sed quisunque secundum Episcopales leges de quacunque causa, vel culpa interpellatus fuerit, ad locum, quem ad hoc Episcopus eligerit & nominaverit, veniat, ibique de causa sua respondeat, & non secundum Hundredum, sed secundum Canones & Episcopales leges, rectam Deo & Episcopo suo faciat.*

All Actions whatsoever were brought in this Court before the Sheriff, as it is reported by Mr. Lombard in his *Archaison*, in that Particular of the Laws of Edgar to our Matter in Hand, viz. *Let no Man seek to the King in Matter of Variance, unless he cannot find Right at Home: But if it be too heavy for him, then let him seek to the King to have it lightened.* The very like thereof in Effect is to be seen in the Laws of Canutus the Dane some Time King of this Realm; out of which Laws may be collected these four Things.

First, That every Man had Means, and was authorized to sue and commence their Actions in this Court, in their own Shire or County.

Secondly, That no Man ought to sue out of the County, or to remove or draw his Plea from thence without good Cause; both which Things do plainly appear in the Letter of this Law.

Thirdly, That the King himself had a High Court of Justice, wherein it seemeth that he sate in Person, as these Words do demonstrate, *Let him seek to the King, &c.*

And lastly, That the same Court of the King's did judge not only according to mere Right and Law, but also after Equity and good Conscience. And after this Order, and in these two Courts was all Justice administered. This Court continued until the Time of William the Conqueror, (and ever since during the Times and Reigns of the ancient Kings) and doth yet continue (in Manner) the same in Form and Substance

County-Court.

stance that it then was ; and the Pleas ought no more to be taken from it now in our Days (without Cause) than they ought to have been ; which may evidently be proved by those ancient Writs of *Pone*, *Recordare*, and *Writ of false Judgment*, which are yet in use to this Day, and to this only End, to remove Suits (upon Cause) out of this Court into superior Courts. But because this requireth great Search of Record (whereunto I have no Access) I must leave it to such whose Abilities and Opportunities fit them to travel in so intricate a Path.

Pleas of the Crown In ancient Times Pleas of the Crown, Indictments of Feudal Trespasses and other Offences were depending in this Court, or in the Sheriffs Turns, as may appear by *Glanvill*, Lib. 1. c. 2, 3, 4. By *Bretton* and *Bston* in divers Places, and by *Fleta*, Lib. 2. cap. 62. until the Statute of *Magna Charta*, c. 17. which lays expressly that no Sheriff shall hold Pleas of the Crown. And by the Statute of 7 E. 4. cap. 2. the Sheriffs, Under-Sheriffs, Clerks, *viz.* County-Clerks, and their Ministers, shall bring, present and deliver all Indictments taken before them in their Turns or Law-Days to the Justices of the Peace at the next Sessions of the Peace.

The Time when it is to be holden. The County-Court is now, as it hath been always, holden once every Month upon a certain Day, the Month being computed according to eight and twenty Days in the Month, and not according to the Kalendar. *Magna Charta*, cap. 35. 9 H. 3. cap. 35. 2 E. 6. cap. 25. And by the Statute of 7 & 8 W. 3. cap. 25. It is enacted, That after the 25th Day of March, 1696, all County-Courts holden for the County of York, and all other County-Courts that were to be holden on a Monday shall be called on Wednesday, and not otherwise, any Custom to the contrary notwithstanding.

C. Inf. 4. cap. 55. Of what Actions it holds Plea. It holds no Plea of Debt or Damages to the Value of forty Shillings or above; nor of Trespass *vi et armis ac contra pacem*, because a Fine is due thereby to the King; yet if the Debt be forty Shillings or above, and the Plaintiff will acknowledge in his Declaration the Receipt of so much as will bring it within forty Shillings, in this Case the Plaintiff and Declaration is good: But if the Debt be above forty Shillings, as five Pounds, and the Declaration upon one entire Bargain or Promise, the Plaintiff cannot divide this into several Actions to make this Court hold Plea of it; and the Defendant will get Advantage thereby upon the Trial, or he may have a Prohibition in some of the Courts at Westminster.

By Writ of Justicies. For Debt, Detinue, Trespass, and other personal Actions above forty Shillings the Sheriff may hold Plea by Writ of Justicies to him directed, and made out by the Corfitor of that County; which Writ is in Nature of a Commission to the Sheriff and his County-Clerk, and it is not returnable: But this Writ doth not alter the Nature of the Court, as to make

County-Clerk.

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make it a Court of Record in that Action mentioned in the Writ; and the Sheriff is not Judge, but the Suitors, being Who Freeholders; yet all Judgments shall be pronounced by the Judges. Sheriff or his Steward.

This Court may be kept at any Place within the County as Where to the Pleasure of the Sheriff, but not out of it; yet the Sheriff be kept of Northumberland (by the Statute) is to keep his County-Court in the Town or Castle of Alnwick, and in no other Place. The Sheriff of Sussex (by the Statute) is to hold his County-Court one Time at Chichester, and the other Time at the Borough of Lewes, and so to be kept alternis vicibus for ever. And also the Sheriff of the County of Chester is to keep his County-Court in the Shire-Hall of the said County.

To this Court all Persons dwelling within the County, being summoned, ought to appear by reason of their Residence in it; and if they do not appear according to Summons, they are attached or distrained by their Goods, to answer the Plaintiff in the Suit.

No Fine can be imposed in this Court upon any Offender, because it is no Court of Record. 8 Co. 44. &c. 60. &c. 11-43; Fiz. 73.

But Quere if a Man may not be amerced for a Contempt or Disturbance of the Court.

This Court entertains no Suits for Charters of Land, or its Jurisdiction. for Inheritance of Freehold of Lands, or any Titles of Land, or to make several Plaunts upon one entire Debt, or any Actions touching Life, or Actions to compel one to render an Account as Receiver or Bailiff.

The Sheriff of the County is to be elected every Year; How and for by the Statute of 14 E. 3 cap. 7. no Sheriff shall carry in his Bailiwick over one Year, and then another shall be ordained in his Place, that hath Lands sufficient in his Bailiwick; and this to be done yearly in the Morrow of All-Souls in the Exchequer-Chamber by the same Statute; and the King's Letters Patent for the new Sheriff of Yorkshire, have usually been made out about the twentieth Day of November yearly; and if the Sheriff be then in the County, he is to be sworn by Virtue of a *Dedimus pone statum* for that Purpose. After he is sworn, he ought to be careful in deputing and constituting a County Clerk that is sufficient in Estate to indemnifie the Sheriff from all Actions occasioned by his Neglect or unskilful or unjust Management, and one that is well acquainted with the Practice of the Court, and very skilful in entring the Proceedings, and drawing them up to be returned with Writs of false Judgment, and will not suffer corrupt Dealings in any Kind.

The County-Clerk ought to be endued with these Qualities according to the Description of *Hets. Provident sibi Vicecom. de Clerico clementissimo. & fidei, viro provido, & discreto, gratiose, humili,*

County-Clerk.

humili, pudico, pacifico & modesto, qui in legibus, consuetudinibusque provincia, & Officio Camit. Clerici se cognoscat, & iura in omnibus teneri affectet, quaque Subbailiffs in suis erroribus & ambiguis sciat instruere & docere, &c. which is thus englisched, That a County-Clerk ought to be endued and qualified with Circumspection, Fidelity, Providence, Humility, Peace and Modesty, and must know, the Laws and Customs of the Country, and have Ability to instruct and direct the Bailiffs or other Ministers in dubious Things wherein they may err. And as *Braction* adviseth, Qui pec ad dextram nec ad sinistram; vel propter prosperitatem seruam, vel adversitatis motum a tramite justitia declinet: i.e. He must neither be attracted by Price nor Corruption, nor any sinister Respect to wander out of the Way of Right.

To be constituted by the Sheriff. The Sheriff (and not the King) hath Power to delegate this Office to whom he pleaseth, as appears in *Myton's Case* in the fourth Report; where Queen Elizabeth by Letters Patent did grant the Office of Clerkship of the County-Court of *Somerset* to *Myton* with all Fees, &c. for Life. *Arthur Hopton*, Esq; Sheriff of the same Shire, interrupted him, because it was incident to his Office. *Myton* complained to the Lords of the Council, and was refer'd to the two Chief Justices, *Wray* and *Anderson*; and after many Arguments concerning the Validity of that Grant, and Conference had with all the other Justices, it was resolved by all the Justices, *nemine contradicente*, that the said Letters Patent were void; and their Reasons were, That the Office of Sheriff was an ancient Office before the Conquest, and of great Trust and Authority; for the King committeth unto him *Custodiam Comitatus*. And although the King may determine his Office *ad bene placitum*, yet he cannot determine it in Part, as for one Town or Hundred, nor abridge the Sheriff in any Incidents to his Office; for the Office is intire, and ought so to continue without any Fraction or Diminution, (unless by Parliament) and the County-Court, and entring of all Proceedings therein, are incident to the Sheriff's Office, and though it was granted when the Office of Sheriff was void, yet the new Sheriff shall avoid it; as *Scragg's Case* in the Time of *Vacation* in the Office of Chief Justice of the Common Bench, Queen Mary granted the Office of the *Exigenter of London*; resolved, That the next Chief Justice shall avoid it, for it was incident to his Office. Also in all Writs directed to the Sheriff concerning the County-Court the King says, *in Comitatu tuo*; and in Return of Exigents made by him, he says, *ad comitatum tuum*, &c. and the Style of the Court proves it. In a false Judgment it is said, *In pleno Com. tuo recordari facias*, &c. and in a Precept of *Tolt*, it is said, *Summoneas, &c. quod sit ad Comitatum meum*: And it should be very inconvenient that another should have the Custody of the Entries and Rolls of Court, which may be imbezilled, and the Sheriff responsible

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responsible for them. And it was resolved that the Custody of all Gaols within every County appertains to the Sheriff by Right, and are annexed and Incident by Law to the Sheriff's Office.

The County-Clerk must be careful in deputing honest, able and sufficient Men, as Bailiffs, for the executing of Precepts issuing out of the Court, and it is just Cause of suspending them if they take unreasonable Distresses, or more than the accustomed Fees, or do not make Return of their Precepts to the County-Clerk or the Plaintiff's Attorney.

He ought to enter no Plaints (except on Writs of *Judicacies*, Plaints, and in Case of Replevins) out of Court, but in full County, where to (*sedente curia*) yet the Use is otherwise at this Day, and (as it seems) good enough, verifying the Proverb, *Communis Error facti jus.*

He must make the usual Process after the Plaints entred (but not before) against the Defendants, directed to the Sheriff's Bailiffs to summon, attach or distrein the Defendant by his Goods, to appear at the next County-Court after, to answer the Plaintiff in the Action. The County-Clerk and Plaintiff upon Complaint of the Party grieved, may be examined by one Justice of Peace concerning the taking and entering of Plaints in the County-Court and Book against the Defendant.

Statute: If thereby the Justice find any Fault or Offence against the Intent of the Plaintiff, it shall stand for a sufficient Conviction and Attainder, without any further Enquiry or Examination; and the Forfeiture is forty Shillings. And the said Justice must certify the Examination within a Quarter of a Year into the Exchequer, by the Statute of 11 H. 7. cap. 15.

If a Writ of Discharge of the ancient Sheriff be delivered to the County-Clerk, sitting in the County-Court, the Authority of the said Sheriff (although absent) shall presently cease. *Dyer 49.* But the Writ of Discharge is not to be delivered until the new Sheriff be sworn to execute his Office.

At the adjourning of every Court, he must appoint a Day certain for the next Court, to the Intent the Country may know what Time they may resort thither to hear the Writs of *Exigent*, and Proclamations read.

County-Clerk, if faulty therein, how to be

Writ of Discharge, its Effect. When to be delivered.

Time to be appointed for holding the Court.

The Office of a Coroner in this Court.

A Coroner is one of the principal Officers of this Court, being chosen in it (by a Writ *de Coronatore eligendo*, directed to the Sheriff) by the Freeholders or Suitors in open and full Court, and is published there; so deriving his Authority under the Freeholders, and not under the Crown, by the King's Demise he is not out of Office as Sheriffs are;

and after the Sheriff is to return and certificate into the Chancery the Election of every such Coroner, and their Names; likewise the County-Clerk in Court must administer to the Coroner his Oath for the due Execution of his Office.

The Coroner being thus elected and sworn, he is to sit with the Sheriff in the County-Court, to give Judgment upon Outlawries, which Judgment shall be given and pronounced by him upon the *quinto et sexto*, and the Sheriff is to require the Coroner's Judgment of Outlawry, for which see the Form afterwards. But by this Judgment the Party is not disabled, nor Goods forfeited, before the Outlawry appears upon Record.

Exigents and Proclamations to be made.

Exigents are to be proclaimed five County-Days, one after another, and the Proclamations in open Court, and once in the open Sessions, and once at the Parish-Church Door where the Defendant doth or lately did dwell, that he appear, or else that he shall be outlawed; see the Form of the Sessions. And if Proclamation be made five County-Days, and at the fifth County-Day the Defendant appear not, then the Coroner shall give Judgment that he shall be out of the Protection of our Lord the King, and out of the Aid of the Law. Let me give you in brief, why a Man is said to be outlawed and a Woman waives; viz. A Man is said to be outlawed, because he is sworn to the Law, and now for his Consumacy he is put from the Law, and said outlawed as it were *extra legem positus*; but a Woman is waived and not outlawed, because she was never sworn to the Law. Finchf. 161. but *ad omnem rem*.

Of Attorneys in this Court.

Attorneys may be made in this Court.

What they do.

Their Duty.

IT hath been objected, That no Attorney could legally practise in this Court, and that every Man ought to prosecute and defend his own Cause himself. But by the Statute of Westminster 2. cap. 10. every Man whichoweth Suit to the County-Court, may make a general Attorney to prosecute and follow his Suits in all Pleas: And likewise in the Statute of Merton, cap. 10. *Quod quilibet liber homo qui se illam debet ad Com. &c. libere possit facere Attorn. subi ad Seccas illas pro eo facias*. And an Attorney may do every Thing in the Name, and as the Act of him who gave him the Authority, as if he had done it himself: He is, *Aliorum negotiorum gestor*; for *Qui per alium facit, per seipsum facere videtur*. Likewise these Statutes following do institute Attorneys in the County-Court, viz. 6 E. I. cap. 8. 20 H. 3. cap. 10. &c. F. N. B. 150. and so is the Usage at this Day well known to all.

In their Practice they ought to be honest and just, according to their Office and Oath, not exciting Men to Suits, especially such as are foreign and illegal, nor for little Offences and

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and small Debts, nor voluntarily (*congratim gravatae*) delay their Clients, nor demand any Sums of Money for the Prosecution of any Action otherwise than is allowed by the Courts: And they are to be skillful in drawing Pleadings, and diligent that their Clients suffer not through their Ignorance or Negligence.

Of Bailiffs.

ABAILIFF is a Servant or Minister of the Law, and by Consequence a Servant to the Party at whose Suit he is to what restrain the Goods of any; therefore he ought to be true, faithful and vigilant in levying of Distresses: He ought not to detain the Attorney's Fee, nor the Warrant of Attorney, nor give it to any other Attorney, than those to whom the Defendant appoints it to be given; neither is he to be prevailed on with Bribes (as too many of them are). His Office is thus described by *Fleta*, *Bailiffus esse debet in verbo veraz, & in opero diligenter & fideliciter, ut pro difendo appressore cognitus, plegatus & clericus, qui de communioribus legibus pro tanto officio sufficiat, se cognoscatur.* *Et quod sit ita justus, quod ob vindictam seu capiditatem non querat versus aliquem.* *Q.E.D.* He is to be content with the Fees allowed him, which are certain and known (and herein after described particularly) being usually paid; and if he take an unreasonable Distress, an Action lies against him, or if he receive more than he ought, or commit any Error in the Execution of his Office contrary to the Tenor of his Precept, then he is to forfeit forty Shillings, and to be convicted thereof by the Examinations of the Justices of Peace.

14 E. 3. cap. 9. And the Sheriff by his Oath ought not to have any Bailiff, but such as he will answer for, and such as be true and sufficient Men in the County; and to make each Bailiff take an Oath in Court for the true Execution of his Office: And by the Statute of 27 Eliz. cap. 12. Every Bailiff of Franchises, Deputy, and Clerk, of every Sheriff, and Under-Sheriff, and every other Person which have Authority, or take upon him to return any Inquest, Jury or Tales, or To be to intermeddle with the Execution of Process in any Court of sworn Record, are, as well as the Under-Sheriff, to take the Oath mentioned in that Statute, for the due Execution of their Office, or forfeit 40 l.

What Actions may be brought in this Court.

ACTION is the Form of a Suit, given by Law to recover a Man's Right; or, *Actio nihil aliud est quam ius prosequendi* Action, what. *Bract. l. 3. f. 92.* in *Fleta*, l. 1. cap. 15.

Actions:

in JUDICIO quod sibi debetur. Therefore what Actions will hold in this Court take as follows :

Devant le Viscount sole, sans les Coroners, Pleas sont tenus per voy de Plaintiff, de personnel Actions, que sont a recover aucun summe de soubz 40s. Come Trespass, det, detinue, covenant, assumpſit, ou tiel, mes nemy Replevin ou accompt, tout soit le summe cy poy, car ils ne sont a recover aucun summe, eins l'un est pur aver les biens deſte deliver, lauter pur accompt render. Et Trespass ou tiel, ne gisſt icy de damages de sui 40s. mes supersedeas gisſt al vicont sur divers plaints en le County-Court chescun desouſt 40s. quant tous sont pur un entier det de 16l. ou ſur Action de covenant port la damages deſus 40s. mes nul vi ſerra la ſuppoſe, car doncque un supersedeas gisſt en que le breve dit que plea de trespass Quare vi G armis ne ſerra temus in un inferior Court, eins ſolemment devant la Roy ou auer Justices per ſon command. Finchley 116 cap. 15.

8 Eliz.
Dyer 246.

Fitz. N. B.
289. d.

All Actions of Debt, either upon an Account made by the Parties, or other Sum of Money owing or due from one Man to another, whether by Writing, as Obligation, Bill, Covenant, or other Specialty; or without Writing, as an Arbitrament, Rent, Money lent, Retainer, Contracts, or the like.

All Actions of Detinue, Trover and Conversion, Deceit upon a Warranty, Non-Delivery, Nuisance, Case for scandalous Words, Case upon Assumpsit, and other Actions upon the Case, as for a Dog biting Cattle, abusing a Distress, spoiling Goods, &c. Actions of Trespass, Assault and Battery, &c. Si aucun chose que concern frankement vient en questionem un plaint de Trespasses ou tiel le Court ne procede, come lou defendant avoit pur Damage feasant, & Plaintiff justifie pur Common de Pasture : mes ſuit per briefe en le County-Court proceder : Et pur ceo en tiel Case pur plaint en le County-Court partie n'ad remedie forsque briefe de Trespass vicontiel, & pur ceo vicont poet determiner l'issue comment que frankement vient en debate.

Fitz. N. B.
70 s. b. Br.
Jurisd. 98.
14 H. 8.
156.

For further Information read Fitzherbert's *Natura Breuum*, which doth learnedly treat of the Nature of all Actions which lie in any Court o f Judicature.

Within what Time Actions must be brought.

Stat. 21.
Jac. 16.

All Actions of Debt grounded upon any Lending or Contract, as Book-Debt without Specialty, and for Rents in Arrear, all Actions of Trespass, Quare clausum fregit, Trover, Detinue and Replevin, for taking away Goods and Chattels, Actions of Account, all Actions of the Case (except Actions for Slander) which shall be sued, must be commenced and brought within six Years after the Cause of such Action or Suit accrued.

Actions. Pledges.

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If the Plaintiff be then of full Age, discovert, *compon mentis*,
out of Prison, and in England, otherwise within such Time
after he becomes so, &c. and not after.

All Actions of Trespass for Assault, Menace, Battery,
Wounding and Imprisonment within four Years after the
Cause of Action, and not after.

All Actions of the Case for scandalous Words within two
Years next after the Words spoken, and not after.

Who may bring Actions, and who not.

I Deots, Madmen, or such as have *lucida intervalla*, such as
are deaf or dumb, or any other Man, Woman or Child
(except Persons disabled by Law) being wronged, may bring
the proper Action appointed for Remedy in that Case; and
all or any of these, wronging other, may be sued. And if
an Ideot sue or be sued, he must do it in Person.

An Infant must sue by Prochein amie; and being sued, must
defend by Guardian.

A Feme Covert cannot sue but with her Husband.

An outlawed Person is disabled to sue any Action against
any Man in any Court of Law or Equity (yet as Executor he
may sue, because it is not in his own Right, but in Trust for
another) but any Man may sue him, by Co. Litt. 128. A
Man that is attainted in a *Premunire*, may not sue in any
Action. *Idem* 129. And a Man that is a Convict Recusant
is disabled, so long as he so continues.

But note, All these Disabilities remain but during the
Continuation of the same Impediment.

Of Pledges de prosequendo in this Court.

Pledges are now become obsolete in this Court, and were
not formerly required, except of such Plaintiffs as lived
out of the County and Jurisdiction of the Court: If the
Plaintiff be nonsuited, or have a Verdict against him, and
the Defendant have Judgment for Costs, and cannot levy
them on the Plaintiff's Goods; his only Remedy is to bring an
Action upon the Judgment by Writ out of one of the
Courts at Westminster. See the Form of Declarations in this
Case.

Of the Proceedings in this Court.

Because I would not have the Country and young Pra-
tisers ignorant of the Proceedings in the Court, which
is

Proceedings.

Actions,
how to be
commenc'd

is the Life of the Practice; I thought it necessary to make an Abridgement of the Proceedings. The Plaintiff in the Action is first to take out a Summons returnable at the next County-Court, and then to appear by his Attorney; and if the Defendant do not appear, an Attachment or *Distringas* is to be made out upon Request.

And the first Thing the Defendant in any Action is to do, is to appear in Person, or by an Attorney in Court, to answer the Action and defend the Suit.

Appear-
ance.

The Defendant did formerly appear by Essoin in Actions of Debt only; and if he did not appear in Person, or by his Attorney at the next Court, Judgment was entered against him by *nil dicit*; But Defendants were essoined by the Baillifs without their Direction or Privy, and so became Sufferers in the Action; for Remedy whereof the Order of the 24th of July, 1654, hereafter mentioned, was made by the Judges of Assize at York; since which Time if any Essoin be received, it is only for Delay until the next Court; and then if the Defendant do not appear by his Attorney, further Process, as *Distringas* is made out against his Goods.

Declara-
tion, when
to be.

At the next Court Day after Process executed, and the Defendant appears, the Plaintiff is to file his Declaration, and shew his Cause of Action, or Matter of Complaint, and in what Manner the Action grew between the Parties, and at what Time and Place the Wrong was done, and shew the Damage he hath sustained by the Wrong done unto him, which upon the Plaintiff is under 40*s.* Let the Attorneys be diligent in taking right and full Instructions from their Clients, and inform themselves of every Punfilio which is materially incident to the Case; that so they may know what manner of Action is most proper to be brought on their Clients Behalf. And note, That in good Pleadings the Law requires four Things:

And how.

1. Verity. 2. Certainty. 3. Order. 4. Congruity. In some Cases, Manner and Form is chiefly to be look'd at, but in other some not altogether so material: As, if an Action of Debt be brought of the Sale of a Horse for five Pounds (where the Bargain was for two Horses), the Defendant pleads that he oweth him nothing in Manner and Form; the Jury ought to find for the Defendant, for that the Bargain was for two Horses for five Pounds, and Manner and Form thereof is material, and Parcel of the Charge; and so it is in many Cases where the Action varies from the Bargain or special Matter. But if an Action of the Case be brought by the Husband alone upon an *Affumpſit* to him by R. the Defendant saith, He did not assume in Manner and Form; and the Plaintiff gives in Evidence of an *Affumpſit* made to his Wife, and his Agreement to it afterwards: This is good, and Manner and Form is not material.

If

If an Action be brought before there is any Cause of Act, on, the Defendant may plead the general Issue; but if a Trespass was done the 4th Day of May, and the Plaintiff declareth the same to be done the 5th or the first Day of May, when no Trespass was committed, yet if upon Evidence it falleth out that the Trespass was done before the Action brought, it sufficeth. 19 Eliz. 6. 47. 23 Eliz. 4. 5. 21 Eliz. 4. 66. And *Littleson* saith, That the Jury may find the Defendant guilty at another Day than the Plaintiff supposeth; for the Law of England respecteth more the Effect and Substance of the Matter than every Nicety of Form and Circumstance; *Agnes Tard non fuit Jura.*

As to the Time.

Note, That in Actions of Debt upon ~~emiss~~ for Wares, for Money or other Things lent, upon an *infimul compurgation*, Action of Trespass, Bartery, or upon the Case, &c. you are not tied to lay the certain Day, but you may lay it any Time after the Cause of Action accrued.

If an Action of the Case be brought upon an *asswift*, the Plaintiff must declare upon the whole Promise made, and not upon Part of it, else the Declaration is not good. *Mirb.* 22 Car. B. R.

In Actions
Plaintiff must
lay the whole
Promise.

If there be Words in a Declaration, which have no Signification, or Words superfluous, the Words shall be adjudged to be void Words, and shall not hurt the Declaration: But the Declaration shall be taken as if these Words were left out of it; unless it be cootraciant to the preceding Matter, and then it does; because the Plaintiff knows not what to answer to. *Co. Litt. Hill.* 23 Car. B. R. *Pesch.* 24 Car. B. R.

Surplusage.

A Declaration ought not to shew any Thing by Implication, it must be set forth expressly.

Certainty.
Amend-
ment.

If the Plaintiff do alter his Declaration after, the Defendant may alter his Plea; for by the Amendment of it, it may be so altered in Mater, that it may require a different Answer from what was formerly pleaded; and in that Case if he should not amend his Plea, he might be tricked for want of a good Plea. *Patt. Reg. fol. 235.*

A Declaration is sometimes called a Count, as Count in Debt; *Kith. 281.* Count in Trespass, *Brit. cap. 26.* Count in Action of Trespass upon the Case for a Slander, *Kith. 251.* But a Count is more properly used in real than personal Actions; and a Declaration more applied to personal than real.

Count,
what
do them

F. N. B. 18 a. 60. D. N. 17 a. 198 c. 217 a.

Nonsuit.

If after Process executed, the Defendant doth appear, and the next Court after gives a Rule to declare, and the Plaintiff doth not file his Declaration within the Time, then upon such Default the Plaintiff is nonsuited, and the Defendant may have his Costs, to be taxed by the County-Clerk; for which taxing there is nothing due to the County-Clerk, but he

Costs
the con-
he

Proceedings.

he receives two Shillings for entering the Judgment, and two more for the Execution, as in the Table of Fees.

Who shall pay Costs.

In every Case where the Plaintiff may have Costs against the Defendant, there if the Plaintiff be nonsuit, or a Verdict pass against him, the Defendant shall have his Costs; as, in Trespass, Debt, Covenant by Specialty, or upon Contract, Actions upon the Case, or upon the Statute for personal Wrongs. [23 H. 8. cap. 15.] Administrators or Executors shall not pay any Costs either upon Nonsuit or Verdict; because their Actions are brought upon Debts or Contracts not made between them and the Defendants. But if they bring Actions for Things done to themselves, as for the taking away of Goods from them, &c. and they be nonsuit, or Verdict pass against them, in this Case they shall pay Costs.

Impar-

lance.

After the Plaintiff hath appeared, and Declaration filed, upon the Appearance of the Defendant, Imparlane is to be entred: Imparlane is when the Defendant being to answer the Suit or Action of the Plaintiff, desireth some Time of Respite to advise himself the better what he shall answer, being nothing else but a Continuance of a Cause till a further Day.

Continu-

ance.

Now to demonstrate what the Word Continuance signifieth; it is, after a Suit is begun, and the Plaintiff hath declared, he must continue his Suit from Court-Day to Court-Day, or else the adverse Party may take Advantage of it; and this is called a Continuance, being but only a proroguing of a Suit from Time to Time, to keep it in being; and is by the Act or Order of Court, and sometimes by the Agreement of the Attorneys of both Parties.

Dies datum

Rule.

The Rule or *Dies datum* is, when further Day is given to the Plaintiff to put in his Declaration, or the Defendant to put in his Answer; the Time is usually the next Court-Day, and if Occasion, a Rule for fourteen Days more.

Plea.

The next Court after the filing of the Declaration, and Imparlane given, the Defendant is to put in his Answer, which he pleadeth and saith in Bar, to avoid the Action of the Plaintiff, either by confessing and Avoidance, or denying the material Parts thereof; it must be legal, full and perfect; for a bad or insufficient Plea is in Law as no Plea.

How it must be.

Replica-

If Issue be not joined upon the Answer, then the Plaintiff is to file his Replication to the Answer of the Defendant, which must affirm and pursue his Declaration.

tion.

Rejoinder.

Then the Defendant must put in his Rejoinder to the Plaintiff's Replication, which must pursue and confirm his Answer: For every Rejoinder ought to have these two Properties specially; that is, it ought to follow and enforce the Matter of the Bar, and also to be a sufficient Answer for the Replication.

Proceedings.

15

If the Parties be not at Issue by reason of some new Matter disclosed in the Defendant's Rejoinder, if there be Cause Joinder, the Plaintiff may surjoin to the said Rejoinder; but it falleth out very seldom. The Surrejoinder is a second Defence of the Plaintiff's Declaration, opposite to the Defendant's Rejoinder.

Demurrer cometh of the Latin Word *demorari*, to abide, Demurrer, and therefore he who demurreth in Law, *morsatur*, or *demoratur in Lege*. Whensoever the Counsel of the Parties are of Opinion that the Declaration or any Part of the Pleadings of the adverse Party is insufficient in Law, then he demurreth or abideth in Law, and referreth the same to the Judgment of the Court. Now there is no Demurrer in Law, but when it is joined; and therefore when a Demurrer is offered by the one Party, as is aforesaid, the adverse Party joineth with him, and thereupon the Demurrer is said to be joined, and then the Cause is by Counsel of both Sides argued in open Court.

When the Declaration, Answer, Replication, &c. are defective in respect of some Circumstance of Time or Place, it may be remedied by Consent of the Court or Parties by a Motion to the Steward.

Non sum informatus, is a formal Answer of Course made by an Attorney, whereby he is deemed to leave his Client undefended, and Judgment passeth for the adverse Party.

Nil dicit, is a failing to put in an Answer to the Plaintiff's Declaration by the Day assigned; which if the Defendant do, Judgment shall pass against him because he saith nothing to the contrary.

To an Action of Debt upon Specialty. *Non est factum*.

To an Action of Debt upon Contract; or upon a Statute, *Nil debet per patriam*.

To an Action of the Case upon an *Asumpsit*, *Non Asumpsit*.

To an Action of Trespass, Assault and Battery, or Slander, *Non culpabilis*.

To a Contract without Deed, the Plea is *solvit*, but to plead Payment to a single Bill without Acquittance is no Plea.

For an Obligation or other Matter in Writing may not be discharged by any Agreement by Word, but by Writing, *Unumquodque dissolvitur eo modo quo colligatur*. But to plead Payment at the Day to an Obligation with Condition, though no Acquittance by Writing, it is good; for the Condition is in Nature of a Defeazance to the Obligation.

To an Action of Debt on simple Contract, *Nil debet per patriam*, or *per legem*, or *solvit*.

If the Action be brought against an Executor, or Administrator, the ordinary Plea is, *Ne unque Executor*, or *Plene administravit*, &c.

If

Proceedings.

If the Suit be upon a Deed or Contract without Deed, that the Defendant was *deins age* when he made the Deed or Contract.

If against a Woman, that she was Covert, that is to say, had an Husband when she made the Deed or Contract.

If upon an Arbitrament, that there was *nul tel arbitramens* legally made, or that he hath performed the Award.

To an Action of Trespass, Damage Recasant; that the Beasts came in by Default of the Inclosure of the Plaintiff, or that he hath Title of Common there, &c.

To an Action brought for Rent, that there is no Rent in Arrear, &c.

To an Action of Detinue, *Non debet*; a Release or Gift to him by the Plaintiff; or that he did tender the Thing sued for before Action brought; that the Plaintiff did deliver it to him as a Pledge for ten Shillings which he hath not paid.

To an Action of the Case for Slander, *Non culpabilis*; or justifie the Words.

Case upon Warranty, *Non warrantavit*; or *Non culpabilis*.

Upon a Bond or Bill, plead Conditions performed *per missam*, *per dies*, Imprisonment &c., upon a Demise, &c. *Non debet*.

To trespass, *Non culpabilis*; an Arbitrament, Tender of Amends before Action brought, &c.

If divers Men commit a Trespass, and one of them makes a good Accord, this will discharge, and be a Bar to all the rest. 9 C. 79.

Plea of
liberum
tenementum
ousts the
Jurisdiction
of the
Court.

If Freehold be pleaded this Court in that Case can proceed no further, if the Action be upon a Plaintiff; but if the Action of the Trespass be brought by Writ of *Justicies*, the Plaintiff may reply to the Plea of *liberum tenementum* and shew his Title, and the Court may proceed by the Opinion of some: And for this see Dalton 507. who says, By Writ of *Justicies*, the Sheriff may hear and determine of Trespass by an Inquest, according to the Order of Common Law; (and the Plea of Novel Assartment is well known) and afterwards although the Freehold shall come in question where the Suit is by *Justicies* in the County-Court, yet the Court shall not surcease, but may determine the Issue. Vide 14 H. 8. 6. Brook's Jurisdiction, 98. on *Franchement viendra in debate en Comtie, la le maistre pro-ecclera; mes ecclera, sil vient in issue la sur plaint sans brieve*. And Finch 220. By Writ of Trespass the Sheriff may determine the Issue, though the Freehold come in Debate; but that is no Remedy in other Court-Bars.

Plea in
Trespass.

There are divers Pleas in Actions of Trespass, some of one Nature, and some of another; as, Justification, Excuse, Tender of Amends, &c.

General
Issue when
to plead,
the must be
specially
plead
ed.

If the Defendant have Matter of Justification or Excuse to plead, he must be sure to plead it specially; for if he plead

the

the General Issue, viz. *Non culpabilis*, it will be found against him.

Where the Defendant is not constrained to plead a special Plea, he may plead the General Issue proper for the Action brought; and give the special Matter in Evidence; for every Plea must be so framed, that it may give a full Answer to the Matters set forth in the Declaration, to wit, all such as are material to be answered unto.

If one be sued upon an Obligation, he cannot be compelled Oyer, to plead before he have Oyer of the Condition of the Obligation.

If an Obligation of an hundred Pounds be made with Condition for Payment of fifty Pounds at a Day, and at the Day the Obligor tenders the Money, and the Obligee refuseth the same, yet upon an Action of Debt upon the Obligation, if the Defendant plead the Tender and Refusal, he must also plead that he is yet ready to pay, and tender the same in Court; but if the Plaintiff will not then receive it, but take Issue upon the Tender, and the same be found against him, he hath lost his Money for ever. See the Plea of Tender.

Every Plea must be offered to be proved true, by saying Averment in the Plea, *Et hoc paratus est verificare*; and this is termed an in Pleas. Averment.

If Tender of Issue come on the Defendant's Part, the General Issue, how to be join'd, Form is, *Et de hoc ponit se super patriam*.

If on the Plaintiff's Part, it is, *Et hoc petit quod inquiratur per patriam*.

If Issue be taken upon these Pleas, and a Jury thereupon warned to appear to try them, the Jury appearing, the Parties may have their Challenges.

Challenge of Jurors.

Challenge is said to be, where there is evident Favour, as Kindred, &c. the Juror of Alliance, Servant, bears Malice, or hath some Action against the Challenger; Juror, a Gossip of the Plaintiff; Juror, Master to the Plaintiff; the Juror eats at the Plaintiff's Cost, or takes Money for his Charges. If the Juror was chosen Arbitrator for one Party, but otherwise where he was chosen indifferent for them: If the Sheriff or Bailiff which make the Panel, is of the Plaintiff's Kindred: Those who have been Attaint of false Oath, or were seen on the Pillory, or against whom there was Judgment of Life or Member: Those who pretend to have some Right in the Thing demanded: The Juror outlawed, if the Record be shewn. Juror attaint of Conspiracy: The Sheriff being 6. f. 33 H.

18 H. 8. f. 2. being Plaintiff, it was allowed for a principal Challenge, that
 8 H. 6. f. 60. the Defendant was indebted to the Juror. If any one or
 Paſch. 31 more of the Jury be returned at the Denomination of the
 Eliz. Party, Plaintiff or Defendant, the whole Array shall be
 21 E. 4. 74. quashed. If there be a Challenge for Cousinage, he that
 11 H. 4. c. 9. taketh the Challenge must shew how the Juror is Cousin. If
 22 Aff. 11. one within the Age of one and twenty Years be returned, it
 Mir. cap. 3. is good Cause of Challenge.

Note,
 Challenge
 may be
 taken to
 the Panel
 made by
 the Sheriff
 after a
Talespray'd
 unto him.
Eftoppel
 binds not
 where it is
 in Force by
 Necessity.

A Writ of Error was brought in the Exchequer-Chamber, upon a Judgment given in the Exchequer between *Vicars* and *Langham*, and the Error assigned was, that the Sheriffs of London having returned a Jury, and they being called, and some not appearing, the Plaintiff prayed a *Tales*; and after the Jury made full by *Tales*, then the Plaintiff challenged the whole Panel by Exception to the Sheriff, whereupon the Jury was quashed, and a new Jury impanelled by the Coroners, by which the Cause was tried. Now the Exception was, That the Plaintiff having prayed a *Tales* to the Sheriffs, and obtained it, was estopped to challenge the Panel for Exception to the Sheriff. But it was resolved, that there could be no Challenge, neither to the Panel nor to the Poll, till first there were a full Jury; so that the Jury not appearing full, there was a Necessity to have a *Tales*, or else the Challenge could not have been taken; and so the Cause would have remained *pro defectu Juratorum*, if the Plaintiff had not prayed it, for the Defendant would not; and so the Judgment was affirmed. And note, That in this Case there were none sworn before the Challenge, but only impanelled. But if the principal Panel do once appear full, then the Challenge must be taken to the Panel before any be sworn, otherwise it comes too late. Likewise note, That where the Plaintiff shews his *Venire fac.* to the Sheriff, he is not estopped thereby to challenge the Panel for Kindred or other Cause that was before the *Ven. fac.* And though a Juror may be challenged for a Cause happened since he was sworn, yet the Panel cannot be so; for no ill Affection of the Sheriff arising since the Juror sworn, can make the Jury suspected that was impanelled before. *Hob. Rep. 235. Vicars & Langham.*

Ven. fac.
 at the
 Election of
 the Plaintiff.

An Array made by the Predecessor of the Sheriff, was challenged and quashed for Cousinage: It was resolved by the Justices, that it was at the Election of the Plaintiff to have a *Ven. fac.* to the Coroner, or else to the new Sheriff. *Mich. 3 E. Dyer 188. See 22 H. 6. 18 Eliz. 48.*

Having now brought the Jury to the Bar, (and that they prove all honest and indifferent Men) being sworn, bid them stand to the Bar.

If a full Jury do not appear, as many as make Default may be amerced.

Witnesses. Court.

19

*What Witnesses are not sufficient to give in Evidence,
and what are.*

THE WORD Evidence is of a different Signification, as signifying authentical Writings of Contracts; but here it is taken for Proof of a Matter in Question, and at Issue, by Testimony of Witnesses before a Jury; and according to the Evidence the Jury are to give in their Verdict according to their Oaths.

And to demonstrate who are insufficient, and may be excepted against, they are such as are infamous, or Persons tainted of Felony, or of a false Verdict, or of Conspiracy, or of Perjury, or in a *Premunire*, or of Forgery upon the Statute of 5 E. c. 14. and not upon the Statute of 1 H. 5. 3. and such as have had Judgment to lose their Ears, or stand on the Pillory, or have been stigmatiz'd or branded; and Infidels, Men not of sound Memory, or not of Discretion, or such as are interested in the Cause, and may have Benefit by the Thing in question, these are not competent Witnesses; and a Wife cannot be Witness for or against her Husband; but all others, though they be never so near of Kindred, Tenants, Servants, Masters, Counsellors or Attorneys, are allowed for good Witnesses, and these being required, must come in to give Evidence, or forfeit to the Party damaged so much as the Court shall award, and must give him Costs and Damages. See all the Cases concerning Evidence, in the 5 E. c. 9. *Law of Evidence.*

*Co. Litt. f. 6.
Plow. 8. 12.*

The Manner of keeping this Court.

THE Sheriff at the first Court after his Election and discharge of the old Sheriff, must read his Patent and Writ of Assistance, and nominate his Under-Sheriff, and County-Clerk, and by 1 & 2 P. & M. cap. 12. appoint four Deputies (at the least) of the Replevins for the Ease of the County.

Then enter the Style of the Court after this Manner :

Ebor. s. Prima Cur. Com. J. B. Ar. vic. Com. predict. tent. apud Castrum Ebor. in Com. pred. die mercurii 8. die Januarii Anno Regni Domini nostri Willielmi Tertii Dei Gratiae Anglia, Scotia, Francia & Hibernie, Regis fidei Defensoris, &c. decimo Annos, Dom. 1698. coram A. B. & C. D. Seclatoribus ejusdem Curie.

Proclama-
tion.

Then command the Bailiff to make three Proclamations
O yes, &c. and say,

All manner of Persons that have any Thing to do at this
County-Court of J. B. Esq; Sheriff of the County of York,
holden here this Day for this County of York, come forth and
give your Attendance.

Command the Bailiff to make Proclamation again, and
say;

All manner of Persons keep Silence, and hear the King's
Majesty's Writs of Exigent and Proclamation read.

Coroner.

A Coroner is to be then present to pronounce Judgment of
Outlawry against those that do not appear upon the Exigent
and Proclamation at the fifth County-Court.

Outlawry.

The Manner of the Coroner's pronouncing is thus, viz.
he takes the Exigents in his Hands, and says: Forasmuch as
A. B. C. D. and the rest of the Men Defendants named in
these Writs of Exigents, have been called five County-Days,
and have not rendered their Bodies to the Sheriff of this
County of York; therefore we pronounce them and every
of them outlawed.

The like for the Women-Defendants, using the Word *maimed*
instead of *outlawed*.

Command the Bailiff the third Time to make Proclamation,
O yes, &c. and say,

Entry of
Plaintiff.

If any Man wilhenter any Plaints, let him come forth and
enter them with the County-Clerk.

Then enter your Plaintiff in this Manner:

A. B. Queritur de C. D. de placito debiti 39 s. 21 d. or A. B.
queritur de C. D. de placito transgr. super Cagum ad dampnum ipsius
A. trigesita & novem solidorum.

Proceed-
ings there-
on.

Then call the Plaintiff thus:

A. B. appear, or thou loeft thy Plaintiff; three Times.

If he appear by his Attorney, then enter the Warrant of
Attorney, viz. the two first Letters of his Name, over the
Name of the Plaintiff.

Then call the Defendant.

C. D. appear and answer A. B. in an Action of Debt (or as
the Case is) or thou forfeit thy Goods distrained; and
further Process will be awarded against thee.

If he appear, then enter his Appearance.

Note, The Plaintiff hath Time to declare until the next
Court-Day after the Defendant's Appearance, and the De-
fendant imparls until the next Court-Day afores.

When the Defendant hath put in his Answer, if the Plain-
tiff join Issue, they may proceed to Trial the next Court-
Day,

Day, if they proceed not further by Replication, Rejoinder, Sur-rejoinder, Rebutter, Sur-rebutter.

If they be at Issue, send out a *Verdict* to summon the Jury.

Then enter on the Head of the Panel thus: *Juratores
inter A. B. querent. & C. D. def. deplacito debiti.*

When they are brought to the Bar, bid the Bailiff make Proclamation and say,

You good Men that be impanelled to try the issue between *A. B.* Plaintiff, and *C. D.* Defendant, answer to your Names, every Man upon the first Call, upon Pain and Peril that shall fall thereon.

If Twelve appear, then swear them one by one after this Manner:

You shall well and truly try this Issue joined between the Parties according to your Evidence. So help you God.

And as they are sworn, enter by every Man's Name, *Jur.* *Juratus est.*

Being all sworn, bid them stand together to hear their Evidence.

Then swear the Witnesses.

The Evidence that you are to give to this Inquest, touching the Matter in Question, shall be the Truth, the whole Truth, and nothing but the Truth. So help you God.

Then let the Jury depart from the Bar to agree upon their *Verdict*.

At their Return, bid the Bailiff call every one by their Names.

Then ask them if they be all agreed on their Verdict.

Jury. Yea.

Who shall say for you?

Jury. The Foreman.

Then call the Plaintiff: *A. B.* appear, or thou losest thy Plaintiff, three Times. Then upon the Plaintiff's Appearance, ask the Jury,

Whether they do find for the Plaintiff or for the Defendant.

Jury. For the Plaintiff.

What Damages do you assess?

Jury. 2*d.*

Harken to your Verdict; You say you find for the Plaintiff, and assess Damages, 2*d.* And Costs of Suit 2*s.* So you say all.

Jury. Yea.

Then bid the Plaintiff pay the Jury.

If the Verdict find the Matter uncertainly, it is insufficient, and no Judgment ought to be given thereupon; as if an Executor plead *plene administravit*, and Issue is joined thereupon, and the Jury find that the Defendant hath Goods in

Verdict.

17 E. 3. 47.

18 E. 3. 48.

22 E. 3. 2.

18 E. 3. 36.

15 E. 3.

Judg. 58.

Court. Distress.

his Hands to be admittred, but find not of what Value, this is uncertain, and therefore insufficient.

Hill. 25.
Eliz. Mic.
28 & 29
Eliz inter
Gomersal
& Gomer-
sal, &c.

A Verdict that findeth Part of the Issue, and findeth nothing for the Residue, is insufficient for the whole, because they have not tried the whole Issue wherewith they were charged; but if the Jury give a Verdict of the whole Issue, and of more; that which is more is Surplusage, and shall not stay Judgment; for *utile per inutile non vitiatur*: But necessary Incidents required by the Law the Jury may find.

Adjourn-
ment of the
Court.

The Court being ended, adjourn the Court to another Day to be kept, commanding the Bailiff to make Proclama-
tion, O yes, &c. and say,

All manner of Persons that have any more to do at this Court, let them come forth and they shall be heard, otherwise they and every one else, may depart hence for this Time, and keep their Hour here on Wednesday the fourth Day of August next, by ten of the Clock in the Forenoon.

Execution.

Now the Court being done, and the Defendant condemn'd by Verdict, then Judgment being entered, a *Pieri facias* shall be awarded to make levy of the Defendant's Goods, and thereupon his Goods shall be taken by Virtue thereof, and may be appraised and sold to satisfie the Plaintiff; and in case the Defendant hath no Goods, whereupon Levy may be made, then the Plaintiff must rest without Remedy in this Court, for it being no Court of Record, no *Copias* lies there; but an Action may be brought at Common Law upon the Judgment entered.

Of Distress.

Bailiff's
Continu-
ance in that
Office.

Considering the many Wrongs the Country hath sustained by griping, Catchpoles, Bailiffs and corrupt Practisers, and how much the ignorant People are abused and deceived; yea, many Times (as the sad Experience of many will inform us) ruined and utterly undone by them, they being the sole Cause of those ignominious Aspersions cast upon the Court; the Advantage that it would produce is inexplicable, if the Statute of 1 H. 5. 4. were observed, Which enacts, That Sheriff's Bailiff one Year shall not be in that Office three Years after, because by their continual being in that Office, they grow so crafty and cunning, that they are able to deceive the Sheriff, Under-Sheriff and County-Clerk, and ruin the whole County; therefore that the Country may not be altogether ignorant of their seeming authorized Actions, I will declare what and when they may distrain, and what and when they may not.

But

But first to declare what a Distress is.

A Distress is either said to be real (that is) when Land is Distress'd, distrained upon a *Grand Cope*, or *Petit Cope*, of which we have what nothing to say here: Or it is said to be personal, where moveable Things are distrained; and this is that we are to speak unto: Therefore a Distress is where one doth take and constrain the Beasts, Cattle, and other Things of another Man, in some Ground or Place, for Debt, Rent, or other Duty behind, or for some Wrong or Damage done.

Bra. 146
Finche's.
Ley 135.
Co. Jup.
Litt. 97.

The Sheriff, nor his Officers, cannot break a Man's House in the Night-time to execute any Process, or to do any ministerial Act: For the Law giveth no Colour to break a Man's House by Night, unless an Outlawry, &c.

How, why
and what
distrain-
able.

None can be distrained that are out of the Jurisdiction of the Court. *Marlb. cap. 2.*

No Distress can be made in the Night, but for Damage-Feastant.

The Bailiff may attach a Man by his Goods, citing him to appear, and answer such a Day, at such a Man's Suit, in such a Court, and for such a Cause: Or he may only give the Defendant Warning (in the Presence of two others) to appear such a Day, in such a Court, at such a Man's Suit, and it is sufficient: And if an Attachment be made, it must be of such Goods (of the Defendant's own proper Goods) as are Moveables, *viz.* by meer Chattels personal, which may be forfeited by Outlawry, and not Immovable.

A Bailiff cannot sever Horses joined to a Cart.

Sheep may not be distrained, if there be a sufficient Distress besides.

No Man shall drive a Distress out of the County where it was taken, nor out of the Wapentake, Hundred or Lathe, except it be to a Pound-overt, within the same Shire, not above three Miles distant. *I & 2 P. & M. cap. 12.*

Distress
where to
put.

A Distress may not be impounded in several Places, upon Pain of five Pounds, and treble Damages.

How used.

A Man cannot work Goods distrained, nor convert them to his own Use.

The Goods of any Man may be taken in any Place within the County, in another Man's House or Ground, as well as his own.

If a Bailiff distrain or attach the Horse of a Master, where the Plaintiff is against the Servant, Trespass lies for the Master against the Bailiff; for the Bailiff ought to take Notice at his Peril whose Goods he distrains or attaches. *13 H. 4. fol. 2.*
14 H. 4. 24. *11 H. 4. 90.* *Dr. and St. 139.*

After Distress or Attachment made, if the Bailiff doth not return his Precept the next Court, Trespass lies against the Bailiff for the Defendant; and an Action of the Case lies

against

Distray.

against him for the Plaintiff, for not returning the Precept.
10 E. 4. f. 18, 3 H. 7. f. 3.

By Coke. If one take Beasts in the Name of a Distress, he ought to put them into an open Pound, for that he who is distrained may give to them Sustenance: But if he constrain dead Chattels, he may put them where he will; but if they spoil in his Default, he must answer for them. 19 E. 4. f. 1. b.

If Goods distrained be put in an open Pound, and they die, it is the Loss of the Owner; but if they be put in another Place, it is otherwise. 39 H. 8. 102. *Distray* 6. He that constrains Beasts may put them in a close House, if he will give them Meat; for the putting them in an open Pound, is but to the Intent that the Owner may give them Meat.

Where a Man distraineth Cattle Damage Reasant, at for Rent, or Service, and puts them into the common Pound, or into another Pound or Place, and he who hath Property in the Cattle, or other Person, taketh the Cattle out of the said Pound, and driveth them where he pleaseth, he who constraineth them may have a Writ *de parco fratre*. *Fitz. Ne. Ep. 293. E. 4. 102*.

A Man may not constrain for any Rent or Thing, one for any Land, but upon the same Land that is charged therewith; but in Case where I come to constrain, and the other seeing my Purpose, chaseth the Beasts, or putteth the Thing out, to the Intent that I shall not take it for a Distress upon the Ground, then I may well pursue; and if I take it presently in the Highway, or in another's Ground, the taking is lawful as well as upon the same Land charged, no whosoeuer the Properties of the Goods be.

If one constrain my Goods that are not constrainable by Law, I may have a general Action of Trespass, or an Action of the Case against him, at my Choice. *Co. 4. 94.*

The Distress must be reasonable, somewhat proportionable to the Thing or Cause for which it was taken; and yet if the Cause be so that a Man cannot take a Distress of less Value, and the Thing be after a Sort entire, as in the Distress of a Cart with its Carriage, or with the Horse or Oxen annexed to them, for twenty Shillings, though there be much Inequality, yet may it not be unreasonable. *Martb. 1. 3. 22 E. 4. 15. 20 E. 4. 3. 41 E. 3. 26.*

But such Distresses as are either excessive for Magnitude, as if one take four Sheep for four Pence, or four Oxen for two Shillings, or the like; these are unlawful Distresses, for which the Bailiff or Distraier shall be punished: *Excessus in re qualibet, in jure reprobatur.* Yet if he take a Horse or Ox for two Pence, where no other Distress is to be had, it is not excessive; but if there were a Sheep or other Goods somewhat proportionable to be taken, there it is excessive and punishable. *Co. 3 Part Inst.*

Whence
Distress
may be
taken.

The Reme-
dy for a
tortious
Distress.

107. 15 H. 3. Marl. 4. Co. 11. 44. 4 H. 8. 4. Tit. No.
Br. 174. 45 Ed. 3. 26.

If one distraint my Kine great with Calf, and by immoderate driving they lose their Calves, I may have an Action of the Case. F. N. B. 86.

If Goods be impounded in a close House, or secret Place, so that the Defendant cannot come to feed them, and the Goods do perish for want of Sustenance, the Distrainer must pay for them. 133 H. 8. Title Distress 66.

If the Distrainer give the Cattle Meat in the Pound, he cannot compel the Owner of the Cattle to pay for this; for the Distrainer is not compelled by Law to give them Sustenance; and if they do agree after the Distress upon a Sum, yet this is no Excuse, but it is for the Deliverance; but if they do agree at the Time of the Distress taken, that he should give them Meat, and that he should have twenty Shillings (or a certain propounded Sum) for the same, this is a good Bargain. 21 E. 4. fol. 53.

An Action of Trespass was brought upon the Statute, that none should be distrainted by his Cattle in the Plough so long as any other reasonable Distress may be had; and the Plaintiff declared the taking to be against the Statute, and did not specially shew that he had other Cattle to be distrainted; yet it was adjudged good for the Defendant to alledge this.

4 E. 3. and 18 E. 2.

Stuff sent to the Taylor, Weaver, Fuller, Sheerman, Miller, &c. shall not be distrainted, for these Officers are necessary for the Commonwealth; and the like Law is of and in a common Inn.

A Distress must be of a Thing whereof a valuable Property is in some Body; and therefore Dogs, Bucks, Hares, Does, Conies, Bees, and the like, that are *sese natura*, Apparel, Armour, cannot be distrainted. Yet though it be of a valuable Property, as a Horse that a Man rideth upon, it cannot be distrainted.

If a Man come into a common Inn, his Goods and Beasts shall not be distrainted there, because then it would be prejudicial to the Commonwealth.

Also Goods and Chattels brought into a Fair or Market to be sold, shall not be distrainted. Per Cur. Marl. 7 H. 7. f. 12. 10 H. 7. f. 21.

Windows, Doors, Tables fixed on a Post, a Furnace, Pales, Timber-Boards fixed on the Ground, Glass, Millstone, &c. cannot be distrainted, nor forfeited by Outlawry: but if these are not used in a House, but Stander-by, then they may be distrainted. Marl. 21 H. 7. fol. 13. Pach. 14 H. 8. fol. 35. Trin. 21 H. 7. f. 27.

What is
distraint-
able, what
not.

A

Distress.

A Bailiff came to a House to distrain, the Doors being fast shut and barr'd, and with his Hand through a Crevice or Hole did shove the Bar, and open the Door, and did take out two Cows in the Name of a Distress; and because he did take a Distress in this Manner, it was adjudged the Distress to be wrongful. *Biz. Distress.* 21.

No Goods shall be distrained but the proper Goods of the Party, and not Pledges, nor yet borrowed Goods. 35 H. 6. f. 25. per *Moyle*, Justice. And it is not of Chattels real, as a Lease for Years, nor of Apparel. 7 H. 6. 9.

A Distress made by the Servant of the Bailiff is good. 25 H. 6. 7.

If a Man distrain Cattel, and they of their own Accord come Home to the Owner, he who distrained them cannot take them again, by reason of the first Distress, except he doth freshly follow them; per *Darby* Justice, because of the Negligence of the Distrainer. 9 E. 4. f. 2.

If a Man come to distrain for Damage Feasant, and see the Beasts in the Ground, and the Owner chaseth them out, of purpose, before the Distress taken, the Owner of the Ground cannot distrain them; and if he doth, the Owner of the Cattel may rescue them; for the Beasts must be Damage Feasant at the Time of the Distress. 16 E. 4. 10. *Auvery*, 182.

A Horse cannot be distrained while the Owner thereof is riding upon him, or leading him; nor if he be tied at a Mill, and came thither with Grist; nor a Horse tied at a Man's Door, the Owner being gone into the House on some Business. *Resch.* 39 Eliz. C. B. adjudged.

If a Beast be unruly in the Pound, as if like to leap over the Pound, it seems the Distrainer cannot justify the tying him to the Pound, nor the fettering him. *Bro. Trespass* 250. 27 H. 8. pl. 64.

None shall distrain wrongfully, upon the Penalties provided upon the Statute of *Marbs. Westm.* 1. 16. 3 B. 1.

None shall procure any to distrain another, to make him appear at the County-Court, or any other inferior Court, on purpose to vex him, and put him to Charge and Trouble, on Pain to make Fine to the King, and to pay the Party grieved treble Damages. *Westm.* 1. 36. 13 E. 1.

An Axe that is in a Man's Hand cutting of Wood, nor Goods that are impounded, and in the Custody of the Law, cannot be distrained for Rent, being distrained already, Damage Feasant.

By 2 W. & M. 'tis enacted, That where any Goods or Chattels shall be distrained for any Rent reserved, and due upon any Demise, Lease, or Contract whatsoever, and the Tenant or Owner of the Goods so distrained shall not within five Days next after such Distress taken, and Notice thereof (with the Cause of such Taking) left at the chief Mansion-house,

Goods di-
strein'd for
Rent, how
they may
be sold.

house, or other most notorious Place on the Premises charged with the Rent distrained for, replevy the same with sufficient Security to be given to the Sheriff according to Law, That then in such Case, after such Distress and Notice as aforesaid, and Expiration of the said five Days, the Person distraining shall and may, with the Sheriff or Under-Sheriff of the County, or with the Constable of the Hundred, Parish, or Place where such Distress shall be taken, (who are thereby required to be aiding and assisting therein) cause the Goods and Chattels so distrained to be appraised by two sworn Appraisers (whom such Sheriff, Under-Sheriff, or Constable are thereby impower'd to swear) to appraise the same truly according to the best of their Understandings; and after such Appraisement, shall and may lawfully sell the Goods and Chattels so distrained for the best Price that can be gotten for the same, towards Satisfaction of the Rent for which the said Goods and Chattels shall be distrained, and of the Charges of such Distress, Appraisement and Sale, leaving the Overplus (if any) in the Hands of the said Sheriff, Under-Sheriff or Constable, for the Owner's Use.

And that it shall and may be lawful to and for any Person or Persons having Rent arrear, and due upon any Demise, Lease or Contract, to seize and secure any Sheaves or Cocks of Corn, or Corn loose or in the Straw, or Hay lying or being in any Barn or Granary, or upon any Hovel, Stack or Rick, or otherwise upon any Part of the Land or Ground charged with such Rent, and to lock up or detain the same in the Place where the same shall be found, for or in the Nature of a Distress, until the same shall be replevied upon such Security to be given as aforesaid, and in Default of replevying the same as aforesaid within the Time aforesaid, to sell the same after such Appraisement thereof to be made: So as nevertheless such Corn, Grain or Hay so distrained as aforesaid, be not removed by the Person or Persons distraining to the Damage of the Owner thereof, out of the Place where the same shall be found und seised, but be kept there as impounded, until the same shall be replevied, or sold in Default of replevying the same within the Time aforesaid.

And 'tis further enacted, That upon any Pound-Breach, or Rescous of Goods or Chattels distrained for Rent, the Person or Persons grieved thereby, shall in a special Action upon the Case for the Wrong thereby sustained, recover his and their treble Damages and Costs of Suit against the Offender or Offenders in any such Rescous or Pound-Breach, any or either of them, or against the Owners of the Goods distrained, in Case the same be afterwards found to have come to his Use and Possession,

Damage
for a
Rescous.

But

Remedy
for unlaw-
fully di-
straining as
aforesaid.

But in Case any such Distress and Sale, as aforesaid, shall be made by Virtue or Colour of that Act, for Rent pretended to be arrear and due, where, in Truth, no Rent is arrear or due to the Person or Persons distraining, or to him or them in whose Name or Names, or Right, such Distress shall be taken as aforesaid; That then the Owner of such Goods or Chattels distrained and sold, as aforesaid, his Executors or Administrators, shall and may by Action of Trespass, or upon the Case, to be brought against the Person or Persons so distraining, any or either of them, his or their Executors or Administrators, recover double the Value of the Goods or Chattels so distrained and sold, together with full Costs of Suit.

When
Goods in
Execution
shall be
liable to
pay the
Rent
Arrear,

Per 8 Anne, c. 16. 'tis further enacted, That no Goods or Chattels whatsoever lying or being in or upon any Messuage, Lands or Tenements which are or shall be leased for Life or Lives, Term of Years, at Will, or otherwise, shall be liable to be taken by Virtue of any Execution, or any Pretence whatsoever, unless the Party at whose Suit the said Execution is sued out, shall before the Removal of such Goods from off the said Premises, by Virtue of such Execution or such Extent, pay to the Landlord of the said Premises, or his Bailiff, all such Sum or Sums of Money as are or shall be due for Rent for the said Premises, at the Time of the taking such Goods or Chattels, by Virtue of such Execution.

When not.

Provided the said Arrears of Rent do not amount to more than one Year's Rent, and in Case the said Arrears shall exceed one Year's Rent, then the said Party at whose Suit such Execution is sued out, paying his said Landlord, or his Bailiff, one Year's Rent, may proceed to execute his Judgment as he might have done before the making of that Act; and the Sheriff or other Officer is thereby impowered or required to levy and pay to the Plaintiff as well the Money so paid for Rent as the Execution-Money.

Fraudulent
Removal
of Goods.

And in Case any Loffee for Life or Lives, Term of Years, at Will, or otherwise, of Messuages, Lands or Tenements, upon the Demise whereof any Rents are or shall be reserved or made payable, shall fraudulently or clandestinely convey or carry off or from such demised Premises his Goods or Chattels, with Intent to prevent the Landlord or Lessor from distraining the same for Arrears of such Rent so reserved as aforesaid, it shall and may be lawful to and for such Lessor or Landlord, or any Person or Persons by him for that Purpose lawfully impowered, within the Space of five Days next ensuing such conveying away or carrying off such Goods or Chattels as aforesaid, to take and seize such Goods and Chattels where-ever the same shall be found, as a Distress for the said Arrears of such Rent, and the same to sell, or otherwise dispose of in such Manner as if the said Goods and Chat-

Chattels had actually been distrained by such Lessor or Landlord in and upon such demised Premises for such Arrears of Rent; any Law, Custom or Usage to the contrary notwithstanding.

But 'tis provided, That nothing in that Act contained shall extend, or be construed to extend, to empower such Lessor or Landlord to take or seize any Goods or Chattels as a Distress for Arrears of Rent, which shall be sold *bona fide*, and for a valuable Consideration, before such Seizure made; any Thing therein contained to the contrary notwithstanding.

And it is enacted also, That it shall and may be lawful for any Person or Persons having any Rent in Arrear, or due upon any Lease or Demise for Life or Lives, to bring an Action or Actions of Debt for such Arrears of Rent, in the same Manner they might have done, in Case such Rent were reserved upon a Lease for Years.

And 'tis further enacted and declared, That all Distresses thereby empowered to be made as aforesaid, shall be liable to such Sales, and in such Manner, and the Moneys arising by such Sales to be distributed in like Manner as by the first mentioned Act is in that Behalf directed and appointed.

It is thereby further enacted, That it shall and may be lawful for any Person or Persons having any Rent in Arrear, or due, upon any Lease for Life or Lives, or for Years, or at Will, ended or determined, to distrain for such Arrears after the Determination of the said respective Leases, in the same Manner as they might have done, if such Lease or Leases had not been ended or determined.

Provided that such Distress be made within the Space of six Calendar Months after the Determination of such Lease, and during the Continuance of such Landlord's Title or Interest, and during the Possession of the Tenant from whom such Arrear became due.

And there is a Provision in the Act, That nothing contained therein shall extend, or be construed to extend, to let, hinder, or prejudice her Majesty, her Heirs or Successors, in the levying, recovering or seizing any Debts, Fines, Penalties or Forfeitures, in the same Manner as if that Act had never been made; any Thing therein contained to the contrary thereof in any wise notwithstanding.

Forasmuch as the ordinary Remedy for Arrearages of Rent is by Distress upon the Lands chargeable therewith, and yet nevertheless by Reason of the intricate and dilatory Proceedings upon Replevins, that Remedy is become ineffectual.

For Remedy thereof, it is enacted by the King's most excellent Majesty, with the Advice and Assent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by Authority of the same, that whenever any Plaintiff in Replevin shall be Nonsuit before Issue joined

Actions on
Lease for
Lives, how
to be
brought

Subject as
in the for-
mer Act.

Distress for
Rent when
the Term
is expired.

When,
how and
by whom
to be made.

Proviso for
the Queen,
&c.

Reasons of
making
the Act.

Proceed-
ings in
Replevin.

Distress.

in any Suit of Replevin by Plaintiff or Writ lawfully returned, removed, or depending in any of the King's Courts at Westminster; That the Defendant making a Suggestion in NATURE of an Avowry or Cognizance for such Rent, to ascertain the Court of the Cause of Distress, the Court upon his Prayer shall award a Writ to the Sheriff of the County where the Distress was taken, to enquire by the Oaths of twelve good and lawful Men of his Bailiwick, touching the Sum in Arrear at the Time of such Distress taken, and the Value of the Goods or Cattle distrained: And thereupon Notice of fifteen Days shall be given to the Plaintiff or his Attorney in Court, of the Sitting of such Enquiry; and thereupon the Sheriff shall enquire of the Truth of the Matters contained in such Writ, by the Oaths of 12 good and lawful Men of his County, and upon the Return of such Inquisition, the Defendant shall have Judgment to recover against the Plaintiff the Arrearages of such Rent, in Case the Goods or Cattle distrained shall amount unto that Value: And in Case they shall not amount to that Value, then so much as the Value of the said Goods and Cattle so distrained shall amount unto, together with his full Costs of Suit; and shall have Execution thereupon by *Fieri facias* or *Elegit*, or otherwise as the Law shall require. And in Case such Plaintiff shall be nonsuit after Cognizance or Avowry made, and Issue joined, or if the Verdict shall be given against such Plaintiff, then the Jurors that are impanelled or returned to enquire of such Issue, shall at the Prayer of the Defendant, enquire concerning the Sum of the Arrears, and the Value of the Goods or Cattle distrained; and thereupon the Avowant, or he that makes Cognizance, shall have Judgment for such Arrearages, or so much thereof as the Goods or Cattle distrained amount unto, together with his full Costs, and shall have Execution for the same by *Fieri facias* or *Elegit*, or otherwise, as the Law shall require.

Judgment.

And it is further enacted, That if Judgment in any of the Courts aforesaid be given upon Demurrer for the Avowant, or him that maketh Cognizance for any Rent, the Court shall, at the Prayer of the Defendant, award a Writ to enquire of the Value of such Distress, and upon the Return thereof, Judgment shall be given for the Avowant, or him that makes Cognizance as aforesaid, for the Arrears alledged to be behind in such Avowry or Cognizance, if the Goods or Cattle so distrained shall amount to that Value; and in Case they shall not amount to that Value, then for so much as the said Goods or Cattel so distrained amount unto, together with his full Costs of Suit, and shall have like Execution as aforesaid.

Second Distress lawful when the first is insufficient.

Provided always, and 'tis enacted, That in all Cases aforesaid, where the Value of the Cattle distrained as aforesaid shall not be found to be the full Value of the Arrears distrained for, that the Party to whom such Arrears were due, his Executors

cutors or Administrators, may from Time to Time distrain again for the Residue of the said Arrears. 17 Car. 2. cap. 7. This Act was made to extend to Wales, and Counties-Palatine, per 19 Car. 2.

If one distrain my Cattle or Goods, without any Cause or Colour, that is not good and just; or if a Man having distrained my Goods, will not tell me, requiring it, and offering to give Satisfaction, for what Cause he distrained them; or if having Cause to distrain, he do distrain Beasts not distrainable, as Beasts of the Plough, or Sheep; or if having distrained Beasts distrainable, he afterward abuse them, as if being a Horse or an Ox, he work it, or being unruly he fetter it, or lay it so as it be thereby hurt; or if he put the Distress in an unknown Place, that I cannot tell how to come at it to feed it; or if he take them out of the County, and put them into a Pound in another County; or if he distrain them in a Place not distrainable: In all these Cases, I may have an Action of Trespass against him. Co. 8. 147. Dots. & St. 112. F. N. B. 45.

Where
Trespass
lies for un-
lawful
Distress.

What Goods may be taken upon Execution.

Execution is a judicial Precept, issuing out after Judgment, properly called a *Fieri facias*, or *Levari facias*, and lieth where a Man hath recovered in any Action lying in this Court, either by Default or Verdict, then he that hath recovered may have this Precept, commanding the Bailiff to levy the Moneys (so recovered) of the Goods and Chattels of the Defendant, and to bring it into the Court, that the Party Plaintiff may have it.

Execution,
what.

Where it
lies.

The Bailiff may (by Virtue of this Precept or Warrant after Judgment) distrain the Defendant's Goods, and detain the Distress in his Hands in Safeguard, till the Defendant hath satisfied the Plaintiff of the Condemnation. 22 Ass. 27. F. N. B. 165. And 4. H. 6. s. 17. Action.

The Bailiff upon this Precept is to do his utmost Endeavour to levy the Money upon the Goods and Chattels of the Defendant, and for that Purpose to enquire and search if he can find any Goods and Chattels of his, whereof Execution may be made; and it will be Wisdom in the Plaintiff to make a diligent Search, to see if he can find out any Thing to be taken hold of; and if he can discover any, to direct the Bailiff to it, who *ex officio* is to take it, and sell it; and if he cannot sell it, he is to return it so; and thereupon a Precept called a *Venditioni exponas* shall be sent to the Bailiff, to force him to sell it and pay the Plaintiff.

The Bai-
liff's Duty.

Goods taken in Execution must be praised, and Execution made of them. 27 Ass. 72.

Where

Where
excusable,
tho' the
Execution
is wrong-
ful.

Where erroneous Judgment is given, the Officer which doth the Execution is excused. 22 *Af.* 64. But on the contrary, if Judgment be given, that is void: For where Judgment and Execution is of a Thing whereof they have no Jurisdiction, there Trespass lies against the Officer for executing it; but if Judgment be there but erroneous, and so void, false Judgment lies, and no Trespass against the Officers. *Plond. Com.* 304.

If after Judgment a Man doth sell his Goods, to defraud me of my Execution, and nevertheless taketh the Profits of them; if it be so found, I may have Execution of the Goods sold by Fraud. 43 *E. 3. f. 2.* 22 *Af.* 72. 50 *E. 3.*

If the Bailiff hath a *Fieri facias* against a Man, and before Execution he payeth the Money, in this Case he cannot do Execution after; if he do, an Action of Trespass lieth against him. *B. R. Pofch. 32 Cor.*

If the Sheriff open or break any House to do Execution at the Suit of a common Person, the Execution is good; but the Party whose House is broken, may have an Action of Trespass against him for the breaking of the House. *Co. 5. 93.*

If the Sheriff levy Money upon an Execution, and giveth it to the Plaintiff, though he never make any Return to the Court, it is good enough. *Co. 5. 90. 4. 67. 11. 40.* 20 *H. 6.*

24. 4.

If a Man hath a Judgment in this Court against the Plaintiff or the Defendant, and the Execution is deferred in Favour of him, the Party grieved may have a Writ de Executione Judicij from above to haffen it. *P. N. B. 120.*

This Writ de Executione Judicij is directed to the Sheriff in whose County the Execution ought to be done; and if he will not do Execution, the Complainant shall have an *Alius*, and a *Pluris*, with this Clause in the Writ of Pluries (*vel nobis causam signific. Etz.*) And if he do not Execution upon this Writ, or return not some reasonable Cause wherefore he delays the Execution, the Party shall have an Attachment against the Sheriff returnable into the King's Bench or Common Pleas, and must be directed to the Coroners (returnable as abovesaid) to answer, &c.

Goods pawned shall not be taken upon Execution for the Debt of him who pawned them, during the Time they are pawned. 24 *H. 8. Pledg. 28.* and 4. *E. 6 Distress 75.*

By *Fieri facias* (or *Levi facias*) the Bailiff cannot break the Door or Chest to take Goods in Execution: For if he do, Trespass lies against him for the breaking only, and not for taking the Goods in Execution. 18 *E. 4. f. 4.* and 13 *E. 4. f. 9.* by *Croke*, notwithstanding 8 *E. 2. Title Executors, 152.* to the contrary.

If a Man letteth to farm by the Year, Oxen or Cattle, and after the Lessor is condemned in an Action of Debt, these Cattle and Oxen demised, during the Term, cannot nor shall not be taken in Execution for this Debt. 22 E. 4. f. 10.

A Bailiff cannot pull the Latch to open the Door, if it be shut, to make a Distress. Co. 5. 91, 93. Dyer 97. 224. But if the Out-door of the House be open, the Sheriff may go into the House and take any Thing there liable to Execution; and being come in at the open Door, it seems he may break open any one of the inner Doors. 18 E. 4. 4 Co. 5. 90. Co. 4. 74.

Of the Replevin.

Cattle being distrained for Rent, Damage Feasant, &c. Replevin, the Owner of the Cattle must go to the County-Clerk how to be for some one of the Deputies appointed in the County for made, for granting out Replevins) to have a Replevin directed to the Bailiffs to replevy them; and the Party must be bound in an Obligation to the Sheriff, to prosecute his Action against him or them that did take the Cattle, and to make Return of the same Cattle to the Distrainer, if he by Justification or Averwry do recover. And if he pursue it not, or if it be found or judged against him, then he that took the Distress, shall have again the Distress, and that is called *Retorn Averio-rum*, and he shall have in such a Case a Writ from above, *de Retorno habendo.*

It appeareth by the Words of the Statute of Marl. cap. 21. Replevin Quod vicecomes post querentiam inde fibi faciam, ea sine impedimento by Plaintiff vel contradictione ejus, qui dicta averia ceperit, deliberare possit: By which Words it appears, that a Plaintiff must first be entered in the County-Court, before the Sheriff can make a Replevin. But yet upon the said Act, the Sheriff may enter a Plaintiff any Day, and out of Court; for that it would be very inconvenient for the Owner to forbear his Cattle till the County-Court Day. Co. 1 part Inf. f. 145.

This Replevin may be removed out of the County into the Recordari. King's Bench or Common Pleas, by a Writ of Recordari fac. loquaciam.

If the Goods cannot be taken by the first Replevin, then Process issues forth an *Alias*, then a *Pluries*, then a *Toties quoties*; and Replevin. If none of these will do, then a *Withernam*.

The suing of a *Withernam* is after this Manner:

If the Bailiff return at the next County, upon the *Toties quoties*, that he cannot replevy the Cattle because they are cloined, or that he cannot have View of the Cattle, then the Sheriff ought to make Enquiry if it be true which is returned; and if it be so found out, he shall make a Precept to the

Replevin.

Bailiff in the Nature of a *Withernam*, to take as many Cattle of the other Party; and if the Bailiff upon the *Withernam* thus awarded return, that the other Party hath not any Thing, &c. he shall have an *Alias* and *Pluries*, and so *ad infinitum*, and hath no other Remedy in this Court.

Note. That Cattle taken in *Withernam ad valentiam*, that is to the Value of the Cattle that were first distrained, and so determined, that the Sheriff cannot execute the Replevin brought for them) is to be understood not of the Number of the Cattle first distrained, but according to their full Worth and Value. For otherwise he that bringeth the Replevin of *Withernam* will be deprived of his Satisfaction he ought to have in case the Distreses were not lawfully taken.

What Force the Sheriff may use to make Replevin. But now to return again to the Replevin: If the Thing distrained be put by the Distrainer in a Place where the Sheriff cannot come to them to make a Replevinghe may take the *Poze Comitatus*, viz. the Power of the County, and after Demand of the Chattels, he may beat down the Door or Place where they are, to take them; and the Owner of the Goods shall recover double for his Loss whatever it be.

A Parol Precept is good. The Sheriff upon the Complaint made to him upon taking of Cattle, may command his Bailiff by Word to make a Replevin of them, and it is as good as though he had made his Precept to the Bailiff. *Fitz. 6. 9.*

Replevior must have Property. He that hath the Replevin must have either a general or special Property in the Thing; as of Goods pledged, or the like; and it must be in him at the Time of the taking, or otherwise he cannot have or maintain the Replevin for them.

No Joinder in Replevin. Divers Mens Cattle being takn, they may not join in one Replevin, but must have severall Replevins.

Certainty. A Replevin ought to be certain in setting forth the Number and Kinds of the Cattle distrained, otherwise it doth not good; because if it be not certain, the Sheriff cannot tell how to make Deliverance of the Cattle, because he knows not particularly what the Cattle are that are distrained. *Triv. 23 Cat. B. R.*

If a Man taketh and impoundeth Goods, a Replevin may be of more Cattle than were impounded: For if a Man strain Cows or Ews, &c. and they have in that Pound Calves or Lambs, the Plaintiff shall have a Replevin for them all: And by *Littleton* it was adjudged, *Mich. 8. L. 3.* That if any Man straineth and impoundeth a Sow great with Pigs in the Pound, the Owner shall have a Replevin for the Sow and Pigs.

Replevin lies notwithstanding grant that they shall be irrepleivable. If a Man by his Deed grant a Rent with Clause of Distress, and grant further, that he shall keep the Goods distrained against Gages and Pledges until the Rent be paid, yet shall the Sheriff replevy the Goods distrained; for it is against the Nature of such a Distress to be irrepleivable, and by such an Invention

Invention the Cursets of Replevin shall be overthrown, to
the Hindrance of the Commonwealth. 13 E. 3. Gage deliver.

5 Co. Inf. 1914. b. ветеринарного врача и аптекаря.

If the Taker of the Cattle justify the taking as in his Free-
hold, then this Court can proceed no further thereon, but
the Cause must be removed by a Writ out of the Chancery,
called a *Recordari facias loquelam*, directed to the Sheriff, re-
turnable the next Term following, either into the Court of
King's Bench or Common Pleas (to which the Party pleareth)
but they are more properly belonging to the Court of Com-
mon Pleas; and this Writ must be openly read, and allowed
in the same Court, to the End that Notice may be given
thereof to the Plaintiff in the Replevin, that he may appear at
the Day of the Return thereof, and declare against the Taker
of his Cattle, otherwise the Taker will have a *return. habendo*
aver. and put him to sue forth the second Deliverance, which
is a great Disadvantage to the Plaintiff.

If the Plaintiff in a Replevin doth declare, that the Defendant had, and doth yet detain the Cattle, and the Defendant doth appear, and afterwards makes Default, the Plaintiff shall have Judgment to recover all in Damages, as well the Value of the Cattle, as Damages for the taking of them, and his Costs. *Milb. 8. H. 8. Rot. 108. Hugh's Abridg. part 3. fol. 1708. Replevin.*

In a Replevin, the Place was omitted in the Declaration; Place must whereupon the Plaintiff demurred: It was holden by the be alledged Court to be a good Cause of Demurrer, for that the Plaintiff in Replevin. is bound to take Notice where the Cattle are distrained; and a Man cannot distrain for a Rent charge but in the Day-time, because the Party cannot take Notice where the Distress was taken; and the Law doth presume that the Tenant of the Land, or his Servants, are all the Day upon the Ground. *Hill.*
12 *Fac. in C. B. Read and Howe's Case. Bramw. 176.*

In a Replevin the Plaintiff declared, that the Defendant *cepit averis* of the Plaintiff *spud* Oconuld ; and did not say, in quodam loco, &c. upon which the Defendant did demur in Law ; the Question was, Whether the expressing of the Place where the taking and distraining of the Cattle was, were material in the Plaintiff's Declaration, or not : It was objected for the Defendant, That the ancient Form of the Register is set forth: And 3rd H. 6th 40. Exception was taken to the Declaration, because the Plaintiff in the Replevin did not alledge the Place where the taking was ? It was said by Cook Chief Justice, to which the other Justices inclined, that the Effect of the Suit in this Case is not the shewing of the Place, but the taking of the Cattle ; and it is to come on the Part of the Defendant, to shew where he took the Cattle : For perhaps the Plaintiff knoweth not where he took them ; and if he did know the Place where they were taken, yet perhaps he hath

Replevin. Proces.

not Witnesses to prove the same, and so by this Means the Plaintiff should be at a Mischief, and delayed in his Suit; whereas a Replevin is a speedy Remedy to have his Cattle again, which perhaps are his Plough-Cattle. And in this Case, upon the Matter, the Avowant is the Actor, and he best knows where he took the Cattle. And it is no Reason that the Plaintiff missing the Place, not being Matter of Substance, should be prejudiced in his Suit. Divers Books were alledged, where the taking is alledged to be in a Town, without saying *in quodam loco*, and yet good. 4 E. 3. 13. 14 E. 3. 14. 21 H. 7. 23. 9 H. 4. in a *Homine replegiando* 13. The Case was adjourned. *Trin. 10 Jas. in C. B. Reed and Hawes's Cases; Godb. 186.* See *Hab. 16.* the same Case, 3 *Cro. 896.* adjudged to be ill without the certain Place.

Of the Proces of this Court.

Either
original or
judicial.

THE Proces of the Court are, either original, issuing out before Judgment, or judicial, issuing out after Judgment. Original is a County-Warrant, Attachment or *Distringas*, &c. Judicial Proces is only a *Fieri facias* or *Levi facias*, or Execution directed to the Bailiff to levy the Debt, Damages or Costs of Suit recovered of the Goods of the Defendant, or of the Plaintiff, if he be nonsuited.

The first Proces, *viz.* a County-Warrant is a Precept issuing out for a Debt or Damage under forty Shillings.

If the Defendant do not appear the next Court after the Summons executed, then farther Proces, *viz.* an Attachment against Goods (in some Places instead of an Attachment a *Distringas*) issueth out to cause the Defendant to appear, and if he appear not on the first Attachment, you may have an *Alias, Pluries*, and so *ad infinitum*, until he appear.

It has been a Custom in *Yorkshire*, Time out of Mind, in Actions of Debt to file a Declaration, according to the Cause of Action, and to sue out a *Venditioni expona* after the third Attachment, to sell such Goods as have been taken upon that, and the two former Attachments, for this Reason, that when the Defendant absconds, or will not appear to the Action, the Plaintiff may receive the Value of the Goods distrained towards Satisfaction of his Debt and Costs, else they would remain in the Bailiff's Hands, and the Plaintiff be without Rededy in this Court.

Of the Writ of Justicies.

THIS Writ issueth out of the Chancery, directed to the Sheriff, giving him Power to hold Plea in this Court in Actions

Actions of forty Shillings, or above; and though it be directed to the Sheriff, yet are the Suitors Judges. It is called a *Justices*, because it is a Commission (and no Original) to the Sheriff to do a Man Justice and Right; and though it be *quod Justices* b. yet the Sheriff is not Judge therein, but the Suitors, and a Writ of false Judgment lieth upon their erroneous Judgment; and the Writ of *Justices* requires no Return.

Plusieurs actions d'un nature payent estre ioyne en un Justices ove Fitz. N. B.
several Precepts, &c le Vicomte Oyer & Determiner eux per enquête 36. a.
selonque order del Common ley. Mes ceo Justices ne alter le nature
del Court; Car les suitors sont la Judges, les pleas ne sont de Re-
cord, comment que soit per briefe de fauz Judgment gis, &c.

Of a Tolt.

TO L T comes from the Latin Word *Tolle*, viz. to take away: It is a Precept by which a Cause depending in a Wapentake or Hundred-Court, or other inferior Court-Baron holden by any Lord of a Manor, may be from thence removed into this Court; and it supersedes all Proceedings in Court-Barons, until a Precept out of the County-Court so proceed. *Quare*, If an Action lies not against the Steward, if he will not obey the *Tolt*: His Fee is two Shillings for the Allowance of it.

Original Processes, and other Precepts.

(1.) **A**. P. Armiger Vic. Com. præd. omnibus & singulis ff. *Com. Ebor.*
ballivis meis in & per totum Com. præd. & eorū Summons.
deputat. conjunct. & divisim salutem, Mando quod summon.
A. B. ita quod sit ad proximam Curiam Com. mei præd. te-
nend. apud Castrum Ebor. in Com. præd. die Mercurii scilicet
xx. die Junii ad respondend. C. D. de placita debiti (vel de
placito transgr. super casum) Et hoc, &c. dat. sub sigillo officii
mei xviii die Maii Anno Regni Dom. Caroli Secundi Dei Gra-
tia, Angliae, Scotiae, Franciae & Hiberniae Regis fidei defens.
&c. tricesimo quarto.

Per J. W. Cler. Com.

(2.) ff. A. P. Armiger Vic. Com. præd. omnibus & singulis *Attach-*
ballivis meis in & per totum Com. præd. & eorū Deputat. *ment vel*
*conjunct. & divisim salutem Mando quod attach. (seu Distri-*Distringas.**
gas) A. B. per bona & cataalla sua ita quod sit ad proximam
Curiam Com. præd. tenend. apud Castrum Ebor. in Com.
prædicto die Mercurii scilicet quinto die J. ad respondend.
C. D. de placita debiti & hoc, &c. dat. sub sigillo officii mei
(die & anno) &c.

Duces
secum, and
second or
third At-
tachment
or Disfrin-
ges.

(3.) ff. G. C. Baronettus Vic. Com. præd. omnibus & singulis ballivis meis in & per totum Com. præd. & eorū deputat. salutem Vobis & cuiilibet vestrum mando quod ducatis vobiscum & habeatis apud Castrum Ebor. ad proximam Curiam Com. mei ibidem tenend. die Mercurii & die J. prox. futur. omnia bona & catal. A. B. quæ vos nuper per alias præcepti mei vobis in ea parte prius direct. distrinxistis ad Sectam C. D. in placito debiti & quod ulterius distringatis (seu attach.) præd. A. B. per alia bona & catala sua in Com. præd. ita quod sit ad prox. Curiam Com. mei præd. tenend. apud Castrum Ebor. præd. die Mercurii &c. ad respondend. prefato C. D. in prædicto placi- cito debiti. Et habeatis ibi hoc præceptum dat. sub sigillo of- ficii, &c.

Summons
upon a
Writ of
Justicies.

(4.) ff. A. P. Armiger vic. Com. præd. omnibus & singulis ballivis meis in & per totum Com. præd. & eorū deputat. nec non ballivo Libertatis de Richmond & Richmondshire in eod. Com. & ejus deputat. conjunct. & divisi salutem. Virtute brevis Domini Regis mihi directi, vobis & cuiilibet vestrum mando quod summon. A. B. ita quod sit ad prox. Cur. Com. mei præd. tenend. apud Castrum Ebor. die Mercurii quinto die M. ad respondend. B. F. de placito transgressionis Et qua- liter hoc præceptum fuerit execut. ad dictam proximam Cur. mihi constare fac. dat. sub sigillo offici mei; &c.

Attach-
ment or
Disfringas
upon a
Writ of
Justicies.

A Venditi-
oni exponas.

(5.) ff. G. M. Armiger vic. &c. salutem Virtute brevis Dom. Regis mihi directi, vobis & cuiilibet vestrum mando quod attach. (seu distringatis) A. B. per bona & catala sua ita quod sit ad proximam Curiam, &c. (ut supra.)

(6.) G. C. Baronettus Vic. &c. salutem Vobis & cuiilibet ve- strum mando quod unum juvencum Anglice a Sirr. appreciat. ad viginti solidos de bonis & catalis A. B. venditioni expon. Eo quod idem Juvencus attachiat. fuit ad Sectam C. D. in placito debiti super demand. triginta & novem solidorum Et ad Cur. tent. pro Com. præd. apud Castrum Ebor. xx die Septembri instantis præd. A. B. licet secundum consuetudinem Cur. præd. solemniter exactus fuit non compervit. per quod secundam consuetudinem ejusdem Curiae a tempore cuius contrarii me- moria hominum non existit. idem Juvencus forisfact. est. Et quod denarios illos habeatis ad proximam Curiam Com. mei prædicti tenend. apud Castrum Ebor. die Mercurii x die O. proximi futur. ad satisfaciend. prefato C. D. de debito præd. & qualit. hoc præceptum, &c. ut supra.

¶ Replevin.

(7.) W. R. Baronettus Vic. &c. omnibus & singulis ballivis meis, &c. salutem Quia J. B. mihi dedit sufficientem securitatem tam de clamore suo prosequend. quam de averis suis return.

Sicut retro. inde adjudicetur ideo ex parte Dom. Regis & virtute officii mei Vic. Com. præd. vobis & cuilibet vestrum mandio quod replegiari fac. eidem J. B. duas vaccas quas H. J. cepit & eas injuste detinet ut dicatur Et summon. per bonos summon. quod sit ad proximam Curiam Com. mei præd. tenend. apud Castrum Ebor. die Mercurii, &c. ad respondend. prefato J. B. de placito captionis & injuste detentionis Averior. prædictor. Et qualiter hoc præceptum, &c. ut supra.

Provided, That if the Goods and Cattle above-mentioned be taken for the Revenue of Excise, or for Fee-farm Rents, Taxes or Assessments, or in any Case wherein by Law the same are not repleviable, this Replevin is to be of none Effect, and not to be obeyed nor executed.

J. W. Cler. Com.

(8.) **W. R. Baronettus Vic. &c. salutem.** Cum nuper vobis & cuilibet vestrum mandavi quod attach. A. B. per bona & catallo sua ita quod sit ad Cur. Com. mei præd. tenend. apud Castrum Ebor. die Mercurii, &c. ad respond. C. D. de placito debiti quia tamen idem A. B. comperuit per Johannem Smith Attornatum suum ad respondend. præd. C. D. in placito suo præd. ideo vobis & cuilibet vestrum mando quod de executione præcepti prædicti supramentionat omnino supersed. Et si aliqua bona seu catallo dicti A. B. virtute præcepti illius cepitis. seu distrinxistis tunc ea sine ditatione eidem A. B. redeliberari fac. Dat. apud Castrum Ebor. præd. sub sigillo officii mei, &c.

A Super.
sedeas
upon a
Distringas
or Attach-
ment.

(9.) **T. R. Armiger Vic. Com. præd. senescalio necnon bal-** A Tolt.
lvo Curiae Wapentagli (sive Hundredi) de Harthill, Quia dat est mihi intelligi quod estis favorabiles & non aequales in quadam loquela in Curia Wapent. (sive Hundredi) præd. penden. inter J. B. quer. & R. S. Defendantem, Ideo ex parte Domini Regis & virtute officii mei præd. mando vobis quod tollatis loqueland prædictam quæ est in Cur. prædicta inter partes prædictas penden. & tandem loqueland habeatis ad proximam Curiam Com. mei præd. tenend. apud Castrum Ebor. die Mercurii xvi die A. prox. futuro, & partibus prædictis eundem diem præfigatis quod sint ad Curiam illam: Et quod ab omni ulteriori prosecutione in loquela prædicta desistatis quousquo in Cur. Com. mei præd. aliter in hac parte ordinat. foret. Et qualiter hoc præcept. fuit execut. &c.

(10.) **Apud Cur. Baron. tent. apud W. infra Hundred. de H.** Hundred
præd. die Mercurii ultimo die Julii Anno Regni Regis Caroli de H. ff.
&c. tempore J. B. Armig. Vic. Comitat. præd. Return.
placitorum.

Original Proces.

Duces
secum, and
second or
third At-
tachment
or Distrin-
ges.

(3.) ff. G. C. Baronettus Vic. Com. præd. omnibus & singulis ballivis meis in & per totum Com. præd. & eorū deputat. salutem Vobis & cūlibet vestrum mando quod dicas vobis & habeatis apud Castrum Ebor. ad proximam Curiam Com. mei ibidem tenend. die Mercurii x die J. prox. futur. omnia bona & catal. A. B. quæ vos nuper per alias præcepti mei vobis in ea parte prius direct. distinxistis ad Seffam C. D. in placito debiti & quod ulterius distringatis (seu attach.) præd. A. B. per alia bona & catala sua in Com. præd. ita quod sit ad prox. Curiam Com. mei præd. tenend. apud Castrum Ebor. præd. die Mercurii &c. ad respondend. prefato C. D. in præd. placito debiti. Et habeatis ibi hoc præceptum dat. sub sigillo officii, &c.

Summons
upon a
Writ of
Justices.

(4.) ff. A. P. Armiger vic. Com. præd. omnibus & singulis ballivis meis in & per totum Com. præd. & eorū deputat. nec non ballivo Libertatis de Richmond & Richmondshire in eod. Com. & ejus deputat. conjunct. & divisim salutem. Virtute brevis Domini Regis mihi directi. vobis & cūlibet vestrum mando quod summon. A. B. ita quod sit ad prox. Cur. Com. mei præd. tenend. apud Castrum Ebor. die Mercurii quinto die M. ad respondend. B. F. de placito transgressionis Et qualter hoc præceptum fuerit execut. ad dictam proximam Cur. mihi constare fac. dat. sub sigillo officii mei, &c.

Attach-
ment or
Distringas
upon a
Writ of
Justices.

(5.) ff. G. M. Armiger vic. &c. salutem Virtute brevis Dom. Regis mihi directi. vobis & cūlibet vestrum mendo quod attach. (seu distringatis) A. B. per bona & catala sua ita quod sit ad proximam Curiam, &c. (ut supra.)

A Venditi-
oni exponas.

(6.) G. C. Baronettus vic. &c. salutem Vobis & cūlibet vestrum mando quod unum Juvencum Anglice a ster. appreciat. ad viginti solidos de bonis & catalis A. B. venditioni expon. Eo quod idem Juvencus attachiat fuit ad Seffam C. D. in placito debiti super demand. triginta & novem solidorum Et ad Cur. tent. pro Com. præd. apud Castrum Ebor. xx die Septembri instantis præd. A. B. licet secundum consuetudinem Cur. præd. solemnitate exactus fuit non compertuit. per quod secundum consuetudinem ejusdem Curie a tempore cuius contrarii memoria hominum non existit. idem Juvencus forisfact. est. Et quod denarios illos babeatis ad proximam Curiam Com. mei prædicti tenend. apud Castrum Ebor. die Mercurii x die O. proximi futur. ad satisfaciend. prefato C. D. de debito præd. & qualit. hoc præceptum. &c. ut supra.

¶ Replevin.

(7.) W. R. Baronettus Vic. &c. omnibus & singulis ballivis meis, &c. salutem Quia J. B. mihi dedit sufficientem securitatem tam de clamore suo prosequend. quam de averiis suis return.

si return. inde adjudicatur ideo ex parte Dom. Regis & virtute officii mei Vic. Com. præd. vobis & cuilibet vestrum mando quod replegari fac. eidem J. B. duas vaccas quas H. J. cepit & eas injuste detinet ut dicuntur. Et summon. per bonos summon. quod sit ad proximam Curiam Com. mei præd. tenend. apud Castrum Ebor. die Mercurii. &c. ad respondend. præfato J. B. de placito captionis & injustis detentionis Averior. prædictor. Et qualiter hoc præceptum. &c. ut supra.

Provided, That if the Goods and Cattle above-mentioned be taken for the Revenue of Excise, or for Fee-farm Rents, Taxes or Assessments, or in any Case wherein by Law the same are not repleviable, this Replevin is to be of none Effect, and not to be obeyed nor executed.

J. W. Cler. Com.

(8.) W. R. Baronettus Vic. &c. salutem. Cum nuper vobis & cuilibet vestrum mandavi quod attach. A. B. per bona & catalla sua ita quod sit ad Cur. Com. mei præd. tenend. apud Castrum Ebor. die Mercurii. &c. ad respond. C. D. de placito debiti quia tamen idem A. B. comperuit per Johannem Smith Attornatum suum ad respondend. præd. C. D. in placito suo præd. ideo vobis & cuilibet vestrum mando quod de executione præcepti prædicti supramentionat omnino supersed. Et si aliqua bona seu catallū dicti A. B. virtute præcepti illius cepisti seu distrinxisti tunc ea sine ditatione eidem A. B. redeliberari fac. Dat. apud Castrum Ebor. præd. sub sigillo officii mei, &c.

(9.) T. R. Armiger Vic. Com. præd. senescalio necnon bal. A Tolt. Ivo Curiae Wapentagij (sive Hundredi) de Harthill. Quia dat. est mihi intelligi quod estis favorabiles & non aequales in quadam loquela in Curia Wapent. (sive Hundredi) præd. pendens inter J. B. quer. & R. S. Defendantem. Ideo ex parte Domini Regis & virtute officii mei præd. mando vobis quod tollatis loquelandam prædictam que est in Cur. prædicta inter partes prædictas pendens. & tandem loquelandam habeatis ad proximam Curiam Com. mei præd. tenend. apud Castrum Ebor. die Mercurii xvi die A. prox. futuro, & partibus prædictis eundem diem præfigatis quod sint ad Curiam illam: Et quod ab omni ulteriori prosecutione in loquela prædicta desistatis quo usque in Cur. Com. mei præd. aliter in hac parte ordinat. foret. Et qualiter hoc præcept. fuit execut. &c.

(10.) Apud Cur. Baron. tent. apud W. infra Hundred. de H. Hundred de H. ff. Return. &c. tempore J. B. Armig. Vic. Comitat. præd. placitorum.

Digital Process.

A. W. Querifur de R. M. defend. de placito debiti. ad dam.
viginti solid.

Virtute istius præcepti mihi directe, Recordari & capi cau-
vimus placitum depend. coram nob. in Cur. nostra inter par-
tes infra nominat. & in eod. statu & conditione sicut nunc pen-
det & partibus præd. prefiximus & dedimus notitiam, quod
sunt apud Cur. Comitat. infra script. die & loco inframen. Pla-
citorum prædictorum prosequi, sicut justiciæ equitatique pertine-
bit prout istud præceptum exigit & requirit. In cuius rei
testimonium posuimus man. & sigil. &c.

J. S. Steward.
T. L. Boiliff.

A Proce-
dendo to 2
Tols.

(11.) T. R. Armiger Vic. &c. senescallo necnon ballivo
Wapentagii (sive Hundredi) de H. salutem Cum nuper vobis
per præceptum meum mandavi ad tollend. loquela in Curia
Wapentagii (sive Hundredi) præd. nuper penden. inter A. B.
queren. & C. D. Defendant. & illam habend. ad Cur. Com.
mei tent. apud Castrum Ebor. die Mercurii, &c. Quix tamen
prædictus C. D. licet solempnit. exact. fuit non competrivit
vobis mando quod in loquela præd. in Curia Wapentagii præd.
in omnibus cum celeritate qua de Jure & secundum legem &
consuetudinem fuerit faciend. procedat. præcepto meo supra
mentionat. non obstan. dat. sub sigillo, &c.

Warrant
upon an
Accedas ad
Curiam.

(12.) ff. A. P. Arm. Vic. &c. senescallo necnon ballivo Cur.
Honoris de Pontefract. salutem Virtute brevis Domini Regis
mihi direct. vobis mando quod assumptis vobiscum quatuor
discretis militibus de Com. meo præd. in plena Curia illa re-
cordari fac. loquela que est in eadem Curia sine brevi dicti
Domini Regis inter G. H. & J. H. & B. D. de averiis ipsius
G. capt. & injuste detent. ut dic. ita quod Recordum illud ha-
beam coram Justiciariis dicti Domini Regis apud Westminster
in Octab. Sancti Hilarii sub sigillo vestro & sigillis prædictor.
quatuor legalium hominum & partibus eundem diem præfigatis
quod tunc sint ibi in loquela illa prout justum fuer. processur.
unacum nominibus quatuor hominum & hoc warrant. dat. sub
sigillo officii, &c.

A Subpoena
ad testifi-
cand.

(13.) G. C. Baronettus Vic. Com. præd. A. B. C. D. & F. G.
salutem Vobis & cuilibet vestrum mando quod (omnibus aliis
prætermis & quacunque excusatione cessan.) sitis in propriis
personis vestris ad Cur. Com. mei præd. tenend. apud Castrum
Ebor. die Mercurii, &c. ad testificand. & veritatem dicend.
in quadam materia Controversiae in eadem Curia penden. in-
ter A. B. querentem & C. D. defendantem in placito transgres-
sionis super casum. Et hoc nullatenus omittatis sub periculo in-
cumbend. dat. sub sigillo officii, &c.

(14.) R. G.

(14) R. G. Miles Vic. Com. præd. ballivo Wapentagii (sive *Venire fac.*
Mundredi) de Owse & Darwent & ejus deputat. conjunct. & *Juratur.*
divisim salutem Vobis & cuiilibet vestr. mando quod venire fac.
coram seftatoribus Curiæ Com. mei prædicti tenend. apud
Castrum Ebor. die Mercurii, &c. duodecim probos & legales
homines de Com. meo præd. ad ibid. faciend. Jurat. patriæ
inter partes querentes & defendantibus in separalibus panellis
huic annex. nominat. in separalibus actionibus in eisdem pa-
nelliis mentionat. Et quod adtunc & ibidem habeatis nomina
Jurat. ill. & hoc præceptum (periculo incumben.) dat. sub si-
gillo officii mei, &c.

(15) ff. Nomina Jurator. inter A. B. querentem & C. D. Panel.
Defendantem de placito transgr. super casum.

J. Smith Attorn' pro Quer'
T. Wilson Attorn. pro Def.

Judicial Process.

Judicial Process issues out after Judgment either by Default, Confession of the Action, or Verdict against the Defendant, or Non-suit, Discontinuance or Verdict against the Plaintiff. The several Forms of Judicial Process are as followeth:

(1.) ff. A. B. Armiger Vic. &c. omnibus & singulis ballivis, *Com. Ebor.*
&c. salutem Vobis & cuiilibet vestrum conjunctim & divisim *Fieri fac.*
mando quod de bonis & catallis T. B. *Fieri facias* tam quoddam *in deb.*
debitum triginta solidor. quod H. S. in Cur. Comitat. mei re-
cupерavit versus eum quam trefdecim solidos & decem denarios
qui præfato H. S. in eadem Curia adjudicat. fuer. pro misis &
cuxtag. suis circa sextam suam in ea parte expend. Et habeatis
denarios illos apud Castrum Ebor. ad prox. Cur. Comitat. mei
ibidem tenend. die Mercurii, &c. reddend. præfato H. S. de
debito & dampnis præd. unde convict. est Et hoc, &c. dat.
sub sigillo officii mei, &c.

(2.) ff. J. B. Arm. Vic. &c. omn. & sing. ballivis, &c. salutem *Fieri fac.*
Vobis & cuiilibet vestrum conjunctim & divisim mando quod *super ver-*
de bonis & catallis que nuper fuer. W. W. defunct. tempore *dict. pro*
mortis sue & in manibus J. W. Executoris testamenti præfati
W. W. fieri fac. tam quoddam debitum quadraginta librarum
quod T. L. in Cur. Com. mei virtute brevis de Justicies versus
cum recuperavit quam viginti solidos qui præfato T. L. in ea-
dem Cur. adjudicati fuer. pro damnis suis que habuit occasione
detentionis debiti præd. si præf. J. W. tanta bona seu catal. que
fuer. præd. W. M. tempore mortis sue in manibus suis admi-
nistrand. habeat. Et si non habeat tanta bona seu catala in
manibus

Iudicij Proces.

manibus suis administrand. tunc damna præd. de bonis & catallis præfat. J. W. propriis. Et quod denar. illos habeatis ad proox. Cur. Com. mei præd. tenend. apud Castrum Ebor. &c. ad reddend. præfat. T. Ende debito & dampnis præd. unde convict. est. Et hoc, &c. dat. sub sigillo officii mei, &c.

*Fieri fac.
Super Ver-
dict. pro
Defend.*

(3.) B. B. Armig. vic. &c. omnibus, &c. salutem Vobis & cuilibet vestrum mando quod de bonis & catallis J. P. in Com. præd. fieri fac. quadraginta & duos solidos & duos denarios qui T. B. in Cur. Com. præd. apud Castrum Ebor. in eodem Com. adjudicat. fuerunt pro dampnis suis secundum formam statuti quæ sustinuit occasione quod idem J. quandam querelam in placito transgr. super casum versus præfat. T. inuste prosecut. fuit prout per quandam Jurat. patrie nuper compert. extitit. Et denarios illos habeatis ad proximam Curiam Com. præd. tenend. apud Castrum Ebor. die Mercurii, &c. ad reddend. præfato T. de dampnis prædictis unde convict. est & hoc, &c.

*Fieri fac.
upon a
Non suit.*

(4.) Quod de bonis & catallis A. B. in Com. meo prædicto fieri fac. quatuordecim solidos & quatuor denarios qui C. D. in Cur. Com. præd. coram seßtoribus ejusdem Curiae juxta formam statuti inde edit. & provis. adjudicat. fuerunt pro missis & custagiis suis pro eo quod præd. A. non profecit. fuit querelam suam per eundem A. in placito transgressionis & insult. versus præfat. C. in præd. Cur. nuper impetrat. Et denarios illos habeatis ad proximam Curiam Com. præd. coram seßtoribus Curiae præd. tenend. apud Castrum Ebor. die, &c. ad satisfaciend. præfato C. de missis & custagiis præd. unde convict. est. Et hoc, &c.

*Fieri fac. in
The ipsa s.*

(5.) Quod de bonis, &c. qui C. D. in Curia Com. prædict. coram seßtoribus ejusdem Cur. adjudicat. fuerunt pro dampnis suis quæ habuit occasione cuiusdam transgressionis eidem C. per præfatum A. apud Clifton in Com. præd. illat. Et denarios illos, &c. ad satisfaciend. præfato C. de dampnis prædictis unde, &c.

*Fieri fac.
in transg.
super casum*

(6.) Ut præantea adjudicat. fuerunt pro dampnis suis quæ habuit occasione cuiusdam transgr. super casum eidem quer. per præfatum (Def.) apud H. in Com. præd. illat. Et denarios illos, &c.

*Fieri fac.
super pro-
mission.*

(7.) Adjudicat. fuerunt pro dampnis suis quæ habuit occasione quarundam promission. & affumpcon. eidem (querent.) per præfatum (Defend.) apud S. in Com. meo præd. illat. Et denarios illos, &c.

(8.) ff.

anno 15. 2. A mobis transactis suisq[ue] debitis summi ni 15. 3.
 (8.) s. J. B. Ar. &c. omnibus. &c. salutem Vobis. & cui- Fieri fac.
 liber vestrum conjunctim & divisi mando quod de bonis & de bonis in-
 catallis que nuper fuerunt J. B. Arm. & nunc in manibus J. R. testatis
 generosi & A. uxoris ejus Administratricis honoram & catalogo Baron and
 rum que fuerunt prædicti J. B. tempore mortis suo admini- Feme.
 strand. Fieri fac tam quoddam debitum 4. l. quod J. W. recu-
 peravit versus præd. J. B. in Curia Com. mei quam 33 s. qui
 præd. J. W. per eandem Curiam adjudicati fuerent pro damp-
 nis suis que habuit occasione detensionis debiti illius virtute
 brevis de Justices. Et quod denarios illos habeatis ad proxima-
 mam Curiam meam Com. mel tenend. apud Castrum Eborum,
 &c. ad reddendum præfato J. W. debitum & dampna præd.
 de quibus prædictus J. B. convictus fuit, unde consideratum
 est in eadem Curia mea quod præd. J. W. executionem haberet
 versus præd. J. R. & A. uxorem ejus de debito & dampnis
 præd. de bonis & catallis præd. per defalt. præd. J. R. & A.
 Et hoc, &c. dat. sub sigillo officii mei, &c.

(9.) s. A. P. Arm. &c. omnibus. &c. salutem Cum T. F. Ret. over,
 summónitus fuit essend. in Curia Com. mei tenend. apud Ca-
 strum Eborum die Mercurii, &c. ad respondendum R. S. de
 placito quare cepit averia ipsius R. videlicet decēm oves & eas
 injuste detinuit contra vadios & pleg. ut dicitur idem R. postea
 in eadem Cūria fecit defaltam ob quam consideratum fuit
 quod ipse & pleg. sui de prosequend. essent in misericordia. Et
 quod prædictus T. iret inde sine die & haberet return. averi-
 orum prædictorum Ideo vobis & cuilibet vestrum mando quod
 præfato T. averia præd. sine dilatione returnari fac. & ea ad
 querimon. ipsius R. S. non deliberetis sine præcepto meo quod
 de præfato Judicio expressam fac. mentionem Et qualiter hoc
 præceptum meum fuerit execut. certific. ad proximam Curiam
 Comitatus mei tenend. apud Castrum Eborum die Mercurii
 scilicet quinto die N. proximo futur. Et habeatis ibi hoc præ-
 ceptum dat. sub sigillo officii mei, &c.

(10.) s. A. P. Arm. &c. salutem Cum T. F. summonitus fuit
 essend. in Curia Comitatus mei tent. apud Castrum Eborum
 duodecimo die Junii ult. præterit. ad respondendum R. S. de
 placito quare cepit averia ipsius R. videlicet duos equos &
 ea injuste detinuit contra vadios & pleg. ut dicitur & idem R.
 postea in eadem Curia fecisset defalt. Ita quod tunc confide-
 ratum fuisset per eandem Curiam quon ipse & pleg. sui de pro-
 sequend. essent in misericordia Et quod prædictus T. iret sine
 die Et quod haberet return. averiorum prædictorum per quod
 vobis mandavi quod eidem T. equos prædictos sine dilatione
 returnari fac. Et quod equos illos ad querimon. prædicti R.
 non deliberetis sine præcepto meo quod de prefat Judic. expre-
 sam faceret mentionem, virtute cuius præcepti averia præ-
 dicta

Judicial Process. Fees.

dicta in manus vestras ceperitis retornari eidem R. S. Et quia praedictus R. S. mihi dedit ulterius sufficientem securitatem tam de clamore suo nunc nunc prosequend. quam de averis praedictis retornand. si return. inde adjudicet. Ideo ex parte Domini Regis & virtute officii mei vobis & cuilibet vestrum mando quod eidem R. averia praedicta fine dilatatione deliberari fac. Et summon. præd. T. quod sit apud Castrum Ebor. ad prox. Curiam Com. mei ibidem tenend. &c. ad respond. præfato R. de placito captionis, &c. Et hoc, &c. datum, &c.

A Table of Fees.

The Fees to the County Clerk.

	l.	s.	d.
F OR every County-Warrant, or entring?	00	00	08
Plaint,	00	00	08
For every <i>Distringas</i> or Attachment,	09	00	08
For every special <i>Distringas</i> or Attachment,	00	01	08
<i>duces tecum</i> ,	00	00	08
A special <i>duces tecum</i> ,	00	01	08
A Writ of <i>Justicies</i> to the Cursitor,	00	02	06
The Precept upon it,	00	02	04
A special Precept upon the Writ of <i>Justicies</i> ,	00	04	04
Dividing a Plaintiff for every Name,	00	00	04
A Replevin,	00	02	04
A special Replevin,	00	04	04
A Bond upon the Replevin,	00	01	00
Warrant of Attorney in Debt,	00	00	02
Warrant of Attorney in Case or Trespass,	00	00	04
Warrant of Attorney upon a <i>Justicies</i> ,	00	00	04
Entring Essoins for every Name,	00	00	04
Entring Impariment,	00	01	00
Copy of every Declaration,	00	01	00
Allowing every Answer,	00	01	00
Copy of every Answer,	00	01	00
Allowing the Replication,	00	01	00
Copying the Replication, and allowing of the?	3	00	02
Rejoinder, &c. and so of the rest,	00	02	00
Entring a Rule,	00	00	04
Entring a Default by <i>Nil dicit</i> ,	00	00	04
Entring a Nonsuit	00	00	04
<i>Subpœna</i> for Witnesses,	00	00	08
<i>Venire facias</i> ,	00	02	00
Return of the <i>Venire</i> ,	00	02	00
Entring Judgment,	00	02	00
<i>Pieri facias</i> ,	00	02	00
<i>Scire facias</i> ,	00	02	00

Tols,

Fees.

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Tolt,	60	01	02
Precept upon an <i>Acedas ad Curiam</i> ,	00	02	04
<i>Supersedeas</i> ,	00	02	04
<i>Procedendo</i> ,	00	02	00
Transcript upon a Plaintiff and Allowance,	00	01	08
Transcript upon a Writ of <i>Justicies</i> and Allowance,	00	03	04
Allowing a <i>Recordari</i> ,	00	02	04
Return,	00	02	00
Allowing a <i>Pone</i> ,	00	04	10
Allowing a Writ of false Judgment,	00	06	08
Return of a <i>Pone</i> ,	00	02	00
Return of a Proclamation,	00	01	00
For every Name returned waived, or outlawed,	00	00	04

The Fees to the Attorney.

Fee for his Appearance,	00	02	00
Drawing every Declaration,	00	01	00
Drawing every Plea,	00	01	00
Drawing the Replication,	00	01	00
Drawing Rejoinder,	00	01	01
Drawing Sur-rejoinder,	00	01	00
For every Court-Day wherein he proceeds in the Action allowed as his Fee,	00	02	00

Fees to the Bailiff for executing of Process.

For executing every Summons of the Plaintiff,	00	00	04
And of the Defendant,	00	00	03
Executing a <i>Distringas</i> , or Attachment of the Plaintiff,	00	00	04
Of the Defendant,	00	00	03
A <i>Duces tecum</i> of the Plaintiff,	03	00	04
Of the Defendant,	00	00	03
A <i>Justicies</i> of the Plaintiff,	00	01	00
Of the Defendant,	00	02	00
A <i>Replevin</i> of the Plaintiff,	00	02	00
A <i>Venire facias</i> ,	00	02	00
If tried, for the Return,	00	02	00
A <i>Fieri facias</i> ,	00	02	00
A <i>Scire facias</i> ,	00	02	00

30 30 00
30 30 00
20 20 00
00 20 00

A Replevin.

If the Cattle be not delivered by Virtue of the Replevin, then the Plaintiff may have an Alias Replevin with these Words, vel causam mihi signific. which Replevin must be made after this Manner:

Ebor. ff.
Alias Re-
plevin.

I. G. Miles, &c. omnibus & singulis ballivis meis, &c. salutem. Quia G. A. ven. coram me, & inventi sufficientem securitatem tam de clamore suo prosequendo, quam de averis suis retor. si retor. inde adjudicetur Ideo virtute officii mei vobis & cuiilibet vestrum conjunctin & divisi mando sicut alias vobis mandavi quod vos sive aliquis vestrum sine dilatatione eidem G. A. repleg. & deliberat fac. duas vaccas quas H. I. cepit & injuste detinet (ut dicit.) vel causam mihi significet. vel unus vestrum significet quare mandata mea vobis inde directa exequi noluisti aut non potuisti Et quod ponat, &c. ut in al.

Proceed-
ings after
the Alias.

And if the Cattle be not delivered upon this Replevin, nor by sufficient Cause why he did not; then the Party may have a Pluries Replevin, vel causam mihi signific. which must be made & verbatim as the Alias Replevin was made; and if Return be made upon any of these Replevins, quod averia elongat. sicut ad loca frigida. ita quod averia illa præf. A. G. non potuit deliberar. Then the Plaintiff may have a Withernam, which must be made in this Manner:

Ebor. ff.
Withernam

I. G. Miles, &c. omnibus & singulis ballivis meis, &c. salutem. Quia G. A. ven. coram me, &c. (sicut prius) vobis & cuiilibet vestrum mando, sicut pluries vobis mandavi, quod vos seu aliquis vestr. replegiari & deliberari fac. præfat. G. A. duas vaccas quas H. I. cepit & injuste detinuit, & adhuc injuste detinet (ut dicit.) Et quod vos super diversa mea præcepta pro repleg. fieri vobis directa certificet. quod animalia prædicta elongat. sicut ad loca tibi incognit. ita quod vobis earubem habere non potueritis: Ideo vobis & cuiilibet vestrum mando quod vos seu aliquis vestr. capiat in Withernam catastria ad valenciam præd. duarum vaccarum de catallis ipsius H. I. delibera-
rand. præfat. G. A. pro duabus vaccis prædictis elongat. Ac etiam quod pon. per vadios & salvos plegios præd. H. I. quod sit & compareat apud, &c. ut in al. Replevin.

Ebor. ff.
Alias Ca-
pias in Wi-
thernam.

G. A. Ar. omnibus, &c. salutem. Quia apud Cur. Com. mei tent. apud Castrum Ebor. die Lunæ, &c. anno, &c. mihi retor. fecisti. quod virtute præcepti mei vob. sæpe direct. ve-
nisti ac parc. H. H. ad locum ubi due vacce præd. imparc. & detent.

Replies.

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detent. fuer. ipse præfat. H. I. & iste due vaccæ elongat.
fuer. ex parco præd. ad loca vob. incognita per præfat. H. I.
ita quod duas vacc. præd. non potueritis replegiare. Ideo
considerat. est per Cur. quod averia præd. H. I. capientur in
Withernam ad valenc. &c. Et ista præd. aver. deliber. præfat.
G. A. salvo & secure custodiri quoq; præd. G. A. aver.
præd. secundum legem potestis replegiare. & secundum man-
dat. mea præd. Ideo vobis & cuilibet vestrum conjunctim &
dividim mandat quod capiat. seu. &c. aver. præd. H. I. ad
valenc. in Withernam & ea præd. G. A. deliberari. cauetis
seu. &c. salvo & secure custodiri usque. &c. Et quod distin-
gitur seu. &c. præd. H. I. ita quod sit apud Castrum Eborum
ad prox. Cur. Com. mei test. &c. ad respondendum eidem
G. A. de prædicto placido præd. & respons. mandati mei cognit.
facietis. &c. apud proximam Cur. Dat. sub sigillo officii met
anno. &c. apud proximam Cur. Dat. sub sigillo officii met
anno. &c.

Note. That when a Replevin is granted, there must be a Bond taken of him to whom it is granted, or of some other for him, with one or two Sureties, to appear at the next Court, and to prosecute his Suit with Effect; or else it may be prejudicial both to the Granter of the Repleving and to the Execution thereof, and the Form of that Bond, and Condition thereof is this:

Pledges
must be
given on a
Replevin.

Notariis universis per presentes nos A. G. de S. in Com.
Ebor. Gen. & I. B. de eadem Villa & Com. Gen. teneri & firmiter
obligati Comitatu Arm. vic. Com. praed. in centum libris
legalis monet. Anglie, solvendi eidem G. M. aut suo certo At-
tornto, Executoribus, Administratoribus vel Assign. suis:
ad quam quidem solutionem bene & fideliter faciend. obliga-
mus nos & eutrumque nostram Heredes, Executores & Ad-
ministratores nostros, pro toto & in solido firmiter per pre-
sentes. Sigillis nostris signata. Dat. vicefimo die Junii Anno
Regni Dom. &c. Dei gratia Anglie, Scotie, Francie & Hi-
berniae, &c. in Annoq; Dom. 1600.

An Obligation upon a Replevin.

The Condition of this Obligation is such: That if G. A. do appear at my next County Court to be holden for the County of York, at the Castle of York, on Wednesday the, &c. next, and do prosecute therewith Effect his Suit which he hath commenced against H. J. for the taking and unjust detaining of two Hhds of the Goods of him the said G. A. and to make Return of the Goods, if Return of the same shall be adjudged: That then this present Obligation shall be void, and of none Effect, &c.

The Con- dition.

The Condition, &c. That whereas G. A. hath obtained from the above-named Sheriff, a Replevin for the delivering of the two Kino, and other Goods distrained and detained by H. I. and others; if therefore the said G. A. do prosecute his Suit upon the said Replevin,

Judicial Process.

win with Effect, and do make Return of the Goods, if Return thereof shall be adjudged; and also do save and keep harmless the said Sheriff by reason of the said Replevin by him granted, as aforesaid, That then this present Obligation to be void, &c.

Judicial Process.

Fieri fac.

Com. Ebor. I. B. Ar. Vic. &c. omnibus & singulis ballivis, &c. salutem. Vobis & cuiilibet vestrum conjunctim & divisiim mando, quod de bonis & catalis T. B. fieri fac tam quoddam debitum triginti solidorum quod H. S. in Cur. Com. mei recuperavit versus eum quam tresdecim solid. & decem denar. quid prefat. H. S. in eadem Curia adjudicat. fuerit pro misis & custag. suis circa sextam suam in ea parte ex pend. Et habeatis denarios illos apud Castrum Ebor. ad prox. Cur. Com. mei ibi tenend. die Mercurii, &c. ad reddend. prefat. H. S. de debito & dampnis pred. unde convict. est. Et hoc, &c. Dat. sub sigillo officii mei, &c.

S. NO NOVEMB.

Ebor. II.

Fieri fac.

cont. Execut.

De bonis
propriis.

(2.) I. B. Ar. Vic. omnibus & singulis ballivis, &c. salutem. Vobis & cuiilibet vestrum conjunctim & divisiim mando quod de bonis & catalis que nuper fuer. W. W. defunct. tempore mortis sue in manibus J. W. Executor. testamenti prefat. W. W. fieri fac tam quoddam debitum quadraginta librarum quod T. L. in Cur. Com. mei virtute brevis de Justices versus cum recte peravit quam viginti solid. qui pred. T. L. in eadem Cur. adu judicat. fuerit pro dampnis suis que habuit occasione detentus debit. pred. si prefat. I. tanta bona seu catala que fuerit pred. W. W. tempore mortis sue in manibus suis administrstrand. habeat Et si non habeat tanta bona seu catala in magnibus suis administr. tunc dampna pred. de bonis & catalis prefat. J. W. propriis. Et quod denar. illos habeat. ad pred. prox. Cur. Com. mei tent. apud Castrum Ebor. &c. ad reddend. prefat. T. L. de debit. & dam. pred. unde convict. est. Et hoc, &c. Dat. sub sigillo officii mei, &c.

Ebor. II.
Fieri fac.
pro misis.

I. B. Ar. &c. omnibus & singulis ballivis, &c. salutem. Vobis & cuiilibet vestrum conjunctim & divisiim mando quod de bonis & catalis T. O. fieri fac. viginti solid. qui S. D. in Cur. Com. mei (secund. pred. Statut. in eo casu provi.) pro dampni suis que ille sustinuit in defensione sua facienda in quodam placito debiti quod. pred. S. D. versus pred. T. O. nuper produc. quia prefat. T. O. sextam suam non prosecut. est, sed de eo convict. ita quod habeam eandem pecuniam apud prox. Com. Cur. mei tent. apud Castrum Eborum die Lunz, &c. prox. ad satisfaciend. pred. S. D. de misis & dampnis pred. Et hoc, &c. Dat. sub sigillo officii mei, &c.

I. B. Ar. &c. omnibus, &c salutem. Vobis & cuilibet ^{Fieri fac.}
strum conjunctim & divisim mando quod de bonis & catallis <sup>post Scire
fac. versus</sup>
quæ nuper fuer. I. B. Arm. & nunc in manibus I.R. Gen. & A. <sup>Admini-
stratricis</sup>
uxoris ejus ^{Administratricis} bonorum & catalogorum quæ fuerunt <sup>Admini-
stratorem</sup>
prædicti I. B. tempore mortis suæ ^{super} Administr. fieri facias tam ^{Verdit.}
quoddam debit. 4 l. quod W. recuperaverit ^{prius habit.} versus præd. I. B. <sup>vers. inte-
stinm.</sup>
in Curia Com. mei quam 33 s. qui præd. I. W. per eandem ^{Curiam}
Curiam adjudicat. fuerunt pro dampnis suis quæ habuit (occa-
sione detentionis debiti illius) virtute brevis de Justic. Et quod
habeatis præd. pecun. apud prox. meam Cur. Com. mei tent.
apud Castrum Eborum, &c. ad reddend. præfat. I. W. debit.
& dam. præd. de quibus præd. I. B. convict. fuit. Unde con-
sideratum est in Curia mea eadem quod præd. I. W. Ex-
ecutionem haberet versus prædictum I. R. & A. uxorem ejus,
de debito & dampnis prædictis, de bonis & catallis prædictis
per defaltam præd. I. R. &c. Et hoc, &c. Dat. sub sigillo officii
mei, &c.

I. B. Ar. &c. omnibus & singulis ballivis meis, &c. salu- <sup>Vinditioni
temponas.</sup>
tem. Vobis & cuilibet yestrum conjunctim & divisim mando
specialiter F. P. Ballivo libertatis de S. & Deputatis suis,
qui habent bona capta super Executionem exeun. de hac Cur.
quod ill. vigint. vervices, Anglice, *Weather-sheep*, quarum
unumquemque vos apretiar. fac. ad oct. solid. de bonis I. C.
Ar. que cepit & medo in manibus vestris reman. intendit.
pro defectu Emptorum, sicut vos retor. Cur. mea vend. expon.
Et denar. inde qui in toto attingunt ad octo libr. habeatis ad
prox. Cur. Com. mei apud Castrum Eborum tent. die Lunæ
xiii. die Maii prox. ad reddend. W. G. qui eidem W. G. in
Curia mea adjudicat. fuer. pro dampnis suis quæ habuit occa-
sione cuiusd. transgr. sibi per eund. I. C. illat. unde convict.
est Et hoc, &c. Dat. sub sigillo officii mei xviii die Octobris
Anno Regni Domini nostri Caroli Secundi Dei gratia, Anglia,
Scotia, Francia & Hibernia Regis fidei defensoris, &c.

Per eund. Vic.

Of a Scire Facias.

If a Fieri Facias do not issue out within a Year and a Day after Judgment entered, it cannot be had till there be a Scire Facias first sued out to summon the Defendant to shew Cause why Execution should not be done; and if now be neglect to answer, or cannot be found to be summoned, then a second Judgment shall be given, that Execution be done of the first Judgment.

Scire Facias.

If Judgment be given against a Testator, albeit it be within a Year after Judgment had, yet there must first issue out a Scire Facias against the Executor or Administrator (before Execution) to shew Chuse why it shoulde not be had.

Or if a Man recover against a Pette sole, and she become Covert, viz. take a Husband within a Year and a Day; then he that shall recover must have a Scire Facias against the Husband, else he cannot charge the Husband.

Scire fac. post. an. & diem.

Ebor. sc.

I. B. Ar. Vic. &c. salutem. Cum W. F. nuper in Cur. Com. præd. per Judic. in dicta Cur. com. præd. tent. apud Castrum Eborum die Lunæ decimo die Februarii Anno Domini mil. sexcentesimo quinquagesimo quarto coram secessat. ejusdem Cur. recuperavit versus G. L. tam quoddam debitum trigint. & duorum solidorum quos idem W. F. in eadem curia recuperavit versus eum quam tresdec. solid. & decem denar. qui eidem W. F. in curia præd. adjudicat. fuer. pro dampnis suis quæ sustinuit occasione detent. debiti illius unde convictus est sicut per process. inde in eadem curia remanen. manifeste liquet executio tamen præd. judicij restat facienda. prout per intimationem præfati W. F. informatus sum. Et quia volo quod ea quæ fuer. in dicta curia rite acta sint debit. Judic. demand. Ideo vobis mando quod per probos & legales honestos homines ballivi mei Sci. fac. dist. G. L. quod sit apud castrum Eborum ad proximam curiam com. mei ibid. tent. die Lunæ tertio die Maii prox. futur. ad ostend. si quid habeat dicere vel non quare præfati W. F. habere non deberet levar. fac. sive execut. versus eum secundum vim form. & effect. ejusdem recuperat. si sibi videtur expediri & habeatis ibi tunc nomina eorū per quos Scire fac. & hoc præceptum Dat. sub sigillo officii mei quarto die Aprilis Anno Regis Caroli Secundi Angliae, &c. xv.

Scire fac. versus Executor. super judicio versus Testatorem.

Ebor. sc.

I. B. Ar. vic. &c. salutem. Cum N. N. nuper in curia com. præd. tent. apud castrum Eborum die Lunæ, &c. coram tunc vic. dicti com. præd. per judic. ejusdem curiae recuper. versus H. N. tam quoddam deb. quadragint. librar. quam vigint. & duos solid. & duos denar. pro dampnis suis quæ sustinuit ratione detent. deb. illius unde convictus est sicut per process. residens. in eadem curia liquet. Ac cum executio Ju-
dic. adhuc restat. facienda. & præd. H. N. post reddit. Judicij præd. mortuus est prout per intimationem dicti N. N. sum in-
formatus. Et quia volo quod ea quæ rite acta sunt in dicta curia

Scire Facias.

5

curia debit. execut. demand. vobis mando quod per probos & legales homines dict. com. Scire fac. F. N. Executric. testam. dict. H. N. quod sit ad prox. com. meum tenend. pro dict. com apud castrum Eborum die Lunæ, &c. ad ostend. si quid habeat vel sciat dicere quare præstat. N. N. executionem suam versus eum habere non debeat de debito & dampnis præd. de bonis & catallis quæ fuer. dict. H. N. tempore mortis suæ levand. & ulterius agere & recipere, &c. Dat. sub sigillo officii mei, &c.

Sci. fac. after Marriage.

B. Ar. vic. &c. salutem. Cum A. B. noper in cur. com. *Ebor. ff.*
I. mei tent. npud castrum, &c. coram seftator. ejusdem cur. recuperavit versus C. D. tam quoddam debit. quadragint. libr. quam quadragint. solid. qui eidem A. B. in eadem curia adjudicat. fuer. pro misis & custag. suis quæ habuit occasione detentionis debiti illius, unde convict. est sicut per process. inde in eadem curia coram dict. seftat. remanen. satis liquet: Executio tamen dic. Judic. restat faciend. Et præd. A. B. post reddit. judic. præd. cepit in virum suum T. R. prout per allegat. dict. A. B. accepi. Et quia volo quod ea quæ rite acta sunt debit. execut. demand. vobis mando quod per probos & legales homines balliv. vestri Scire fac. & notum fac. eidem C. D. quod sit ad prox. com. meum tenend. apud, &c. ad ostend. si quid habeat, vel aliquid sciat pro se dicere, vel non, quare præd. T. R. Execut. judic. præd. non habeat de debito & dampnis præd. secundum vim & effect. recuperatio his præd. si sibi videtur expedire. Et habeat ibi nomina eorum per quos ei Sci. fac. Et hoc præceptum, &c. Dat. sub sigillo officii mei qnarto die Junii, Anno Regni Dom. nostri Gulielmi Tertii Dei Gratia Anglie, Scotie, Francie & Hibernie Regis fidei defensor. &c. *xiv.*

Venire fac. Jurator.

B. Ar. Vic. com. præd. ballivo Hundredi de O. sive deputat. *Ebor. ff.*
I. suo, salutem. Vobis & cuilibet vestrum mando quod Veh. fac. coram legal. Seneschal. meo per me appunctuat. pro com. meo tenend. apud castrum Ebor. die Lunæ, &c omnes illas separales personas in panellâ huic annex. mentionat. ad triand. tales separales exitus inter partes & partes quales attingunt & ibidem illis præcept. fuerint. Et hoc nullatenus omittat. sicut quilibet vestrum contrar. ad pericula vestra respond. una cum hoc præcept. Dat sub sigillo officii mei, &c.

Decem Tales.

Ebor. II.

I. B. Ar. &c. Hæc sunt ad requirend. te dictum ballivum
I. quod venire fac. duodecim probos & legales homines de
balliva tua, quod sint & compareant ad prox. cur. com. mei
tenend. apud castrum Eborum die Lunæ, &c. per nonam ho-
ram ante meridiem, ad triand. exit. junct. inter A. B. quer.
& C. D. def. de placito debiti (*or as the Case is*) Et hoc nullatus
nus omittatis dat. sub sigillo officii, &c.

Ebor. II.

*And if a full Jury do not appear, then as many as make Da-
fault shall be amerced, and a Decem Tales awarded
to summon ten more, as followeth, and the same Day
given to the first Jury.*

Decem Tales.

Ebor. II.

I. B. Ar. &c. Hæc sunt ad requirend. te præsat. ballivum
I. quod Venire fac. decem plures probos & legales homines
ballivi tui quod sint ad pox. com. meum tenend apud castrum
Eborum die Lunæ, &c. cum aliis qui sibi adtunc & ibidem
assidentur, ad triand. quend. Exit. junct. inter A. B. Quer. &
C. D. Defend. de placito debiti, &c.

*And as many of these as make Default shall be amerced, and
then an Octo Tales shall be awarded; and if Necessity
require it afterwards, a Sex Tales.*

Subpœna, or a Warrant to summon Witnesses.

Ebor. II.

I. B. Ar. Vic. Com, præd. I. B. I. G. &c. salutem. Vobis &
I. cuiilibet vestrum mando quod (omnibus aliis prætermis-
& excusatione quacunque cessante) vos & quilibet vestrum sitis
& personal. compareatis ad prox. cur. com. mei tenend. apud
castrum Eborum die Lunæ decimo die Junii prox. futur. ad
testificand. veritate in secund. notitiam vestram in quadam
actione ibidem depend. inter A. B. Quer &c. C. D. Def. de
placito debiti: Et hoc nullatenus omittas. sub forisfac. cujus-
libet vestrum cent. libr. Et hoc, &c. Dat. sub sigillo officii
mei, &c.

*A Liberete to deliver Goods taken upon Original or
Mean Proces.*

I. B. Ar. Vic. com. præd. omnibus & singulis ballivis meis in Ebor. sc. I. & per totum com. meum, & eorum deputat. necnon A. B. salutem: Cum S. U. comparuit per Attorn. suum in hac curia ad respondend. W. N. de placito debiti: Ideo hæc sunt ad volend. & requirend. vos immediate super visum hujus deliberare, sive deliberari faciend. S. W. duas vacas de bonis dict. S. U. que vos distinxisti & custoditis virtute Warrant. mei ab hac curia direct. ad se et prefat. W. N. & hoc non omittat. sicut contrar. respond. Dat. sub sigillo officii mei, &c.

A Precept upon Proclamation.

I. B. Ar. Vic. &c. ballivo Hundredi de B. & deputat. suis, Ebor. sc. I. salutem: Virtute Proclamat. super exigi fac. mihi direct. vobis & cuiilibet vestrum mando, quod vos siue aliquis vestrum duas separales Proclamat. faciat. un. quart. faciend. ad general Quart. Session. pacis tenend. pro le North-riding com. Ebor. & alter faciend. apud ostium Ecclesiae Parochial. post Celebrat. Divin. Servic. ubi separal person. subscript. inhabitant quod ii & eorū quilibet corpora eorum reddant mihi Vic. com. præd. ubi exigi. fac. versus eos est: Et hoc non omittat. ad percussum vestrum. Dat. sub sigillo officii mei xxii die Aug. Anno Regis Caroli Secundi Anglie, &c. xiv.

At the Election of the Coroner, he is to be sworn in Court by the County-Clerk, for the due Execution of his Office, in this Manner,

You shall swear, That you well and truly shall serve our Sovereign Lord the King in the Office of a Coroner; and as one of his Maj's Coroners of the County of Y. and therein you shall truly and diligently do and accomplish all and every Thing and Things appertaining to your Office, after the best of your Cunning, Wit and Power, both for the Profit and Good of the Inhabitants within the said County, taking such Fees as you ought to take by the Laws and Statutes of this Kingdom, and not otherwise. So help you God.

The Oath of an Attorney.

Y O U shall do no Falshood, nor consent to any to be done in the Court; and if you know of any to be done, you shall give Knowledge thereof to the Steward, or County-Clerk, That the same may

may be reformed : You shall delay no Man for Lucre or Malice : You shall increase no Fees, but shall be content with the old Fees accustomed : You shall suffer no Foreign or illegal Suits to hurt any Man, nor plead or cause to be pleaded any Foreign Plea, but such as shall stand with the Order of the Law and your Conscience : You shall not procure to be sued any false Suit, nor give Aid nor Consent to the same. And lastly, you shall use your self in the Office of an Attorney within this Court according to your Learning and Discretion. So help you God.

A Warrant of Attorney.

To S. D. one of the Attorneys of the County-Court for the County of York, or to any other Attorney of the same Court.

I A. B. do hereby desire you, and do give you full Power, Licence and Authority to appear for me, and for, &c. in your said Court on Monday, &c. in an Action of Debt, for, &c. at the Suit of E. D. upon an Obligation conditioned for the Payment of, &c. in which said Obligation I stand bound as Principal : And this shall be your sufficient Warrant in that Behalf. In Witness, &c.

Bond for Appearance.

It hath been formerly used to take a Bond of the Defendant for his Appearance in this Court : The Form of the Condition is this :

The Condition, &c. That if the above-bounden E. T. do appear at the next County-Court to be holden at the Castle of Y. on Monday the first Day of January next, to answer H. B. in a Plea of Debt, and do also stand to such Order as the Court in that Behalf shall set down, and adjudge according to Law ; that then this present Obligation to be void, &c.

A Sale of the Goods to the Plaintiff levied upon a Fieri Facias, by the Sheriff's Bailiff.

KNOW all Men by these Presents, That I G. B. of Skipton in Craven, Bailiff of the Liberty or Wapentake of Slaincliff in the County of Y. by Virtue of a Precept of Fieri Facias from the Sheriff to me directed, have levied of the Goods and Chattels of, &c. the Sum of, &c. Part of a Debt due to, &c. levied by Virtue of this Precept to his Use. In full Satisfaction of which said Sum of, &c. I do by Virtue of the Precept or Warrant to me directed as aforesaid assign,

assign, sell, and set over to the said, &c. all the Goods and Chattels in the Appraisement hereto annexed, nominated, at the Rate of, &c. To have, &c. the said Goods and Chattels, to Him, his Heirs, Executors and Administrators, as his, or their own proper Goods and Chattels, as fully and absolutely as I the said G. B. might, could or ought to do by Force and Virtue of the said Precept and Appraisement, or otherwise howsoever. In Witness whereof I have hereunto set my Hand and Seal, the 16th Day of August, in the Year of our Lord, 1658.

A Deputation for a Bailiff of an Hundred.

I A. B. Esq; Sheriff of the County of Y. To all Christian People whom these Presents do or may concern, greeting. Know ye, that I the said Sheriff have deputed, constituted and appointed R.D. of A. in, &c. my lawful Bailiff and Deputy within the Hundred of B. in the North Riding, in the County of Y. aforesaid, to have and execute the said Office of Bailiff within the said Hundred, or elsewhere within the said County of Y. as Occasion shall require it, during my Pleasure only, and no longer; and to receive and take to my Use all Fees, as well for Distress, Attachment, and Perquisites of Courts, and other Profits due and accustomed whatsoever to the said Bailiwick belonging, or in any wise appertaining. And whatsoever my said Bailiff shall lawfully execute and do in his said Office, I do hereby warrant, ratifie and confirm, as my own Act and Deed. In Witness whereof I have hereunto set the Seal of my Office the 17th Day of August, 1658.

The Order of the Judges of Assize at York, the 24th Day of July, 1654. concerning Essoins illegally returned into this Court.

WHereas of late Judgments have been surreptitiously obtained in this Court, by reason of Essoins anduly brought into the Court, by Bailiffs or their Deputies, and others, after Attachment of Goods for Appearance; which pretended Essoins being afterwards disavowed by the Defendant, have occasioned sundry Complaints and Suits, when the Defendant's Goods were taken in Execution: For preventing whereof, it is ordered, upon Advice and Consultation had with the Judges of Assize at York, this Day, that henceforth no common Essoin shall be entred and allowed by the Court to save a Default, unless it be warranted in Writing, under the proper Hand-writing, or under the Hand, Seal or Mask of the Defendant, thereby specially authorizing the Party being the Essoiner to cast such Essoin for him, and in his Name; for the Truth of which Subscription or sealing, the same Essoin is to be sworn in open Court, and no Essoin is to be admitted or received from henceforth, being not affirmed,

and sworn unto, and so entered upon the Back of the Warrant of Attachment, which is to remain upon the File amongst the Rolls or Proceedings of the Court : And if any other Person (not being a Bailiff) shall be the Essoiner, he is to bring the like Warrant from the Defendant in Writing as is aforesaid, and be sworn for the Truth thereof, which is to remain in Court as aforesaid : And no Judgment shall be given where there is no other Appearance but an Esjoin, unless the Esjoin shall appear to be warranted as aforesaid.

Note, To swear to warrant Esjoins in this Court is contrary to the Statute of Marlbr. cap. 19. which saith, De Essoiniis autem provisum est, quod in Com. &c. nullus habeat necesse jurare pro Essoinio suo Warrantizand.

Of the Nature and Return of those Writs that do remove Actions of this Court into Superior Courts.

Writs removing Suits out of this Court, may be without shewing Cause in the Writ, if the Remove be by the Plaintiff ; but not without shewing good Cause, if it be by the Defendant : As, that the Suit is for Charters of Land, or for Inheritance, or for Freehold of Land, or any Titles of Land, or Actions touching Life, or Actions to cause one to render an Account, or Trespass vi & armis, all which are not within the Cognizance of the Court ; or that he before whom the Action depends, is a Favourer of him that is on the other Side ; or that the Defendant avoweth for Damage Feasant, and the Plaintiff doth justify for common of Pasture, which is a Plea touching Freehold, and therefore the Prosecution in this Court ceaseth.

First of a Recordari facias loquela.

Recordari
facias lo-
quela.

A Recordare is a Writ issuing out of the Chancery, directed to the Sheriff, commanding him to send a Plaintiff that is before him in his County-Court, without Writ of Justices, into the Court of King's Bench or Common Pleas, to the End that the Cause may be there determined. And the Sheriff is hereupon to summon the other Party to be in that Court (into which the Plaintiff is to be sent) at a Day certain : And of all this he is to make a Certificate under his own Seal, and the Seals of the four Suitors of the same Court.

The Return

Virtute hujos brevis mihi direct ad Comitat. meum Eborum tent. apud Castrum Eborum infrascript. (tali die & anno) Recordari feci loquela de qua interius fit mentio quæ patet in Scedula. huic brevi annexa, & illud Record. coram Justiciar. infrascript. habeo ad diem & locum infra content. sub sigillo

mto

meo, & sigillo W. F. R. & E. quatuor proborum & legalium Militum ejusdem com. ex illis qui Recordo ill. interfuerunt, & partibus infrascript. eundem diem praesixi, quod tunc sint ibi in loquela illa prout justum fuerit processur. sicut interius mihi praecipitur.

Resid. execut. hujus brevis patet in quadam Schedula huic brevi annex.

Ad com. meum tent. apud castrum Eborum in com. præd. The Schedule
(tali die & anno) coram I. R. M. L. I. S. & S. D. quatuor dule.
sextator. dict. cur. inter al. continetur.

R. S. Queritur versus B. W. de placito debiti (or as the Case Ebor. &
is) I. B. Ar. Vic. The Plea.

Pledg. de prosequend. I. S. I. D.

In cuius testimonium, &c.

Virtute hujus brevis Recordari feci loquel. quæ est in Com. Or thus.
meo sine brevi Domini Regis inter A. B. & C. D. de averiis
ipsius A. B. capt. & injuste detent. ut dicitur & Record. illud
coram Justiciar. infrascript. ad diem & locum infrascript. habeo
sub sigillo meo & sigillis E. B. S. D. R. B. & I. L. quatoor le-
galium Militum com. mei ex illis qui Recordq. ill. interfuerunt.
prout pater in quadam Schedula huic brevi annex. secundum
exigen. hujus brevis.

Ad Com. meum tent (as before)

Virtute hujus brevis in forma infrascript. ad Cur. infrascript.
veni & in ill. plena curia Recordari feci loquelam infrascript.
& Record illud prout patet in Schedul. huic brevi annex. habeo
coram Justic. infrascript. ad diem & locum infra content. &
partibus infrascript. eundem diem praesixi, quod tunc sint ibi
in loquela illa prout justum fuerit processur. sicut interius
mihi praecipitur.

A. B. Queritur versus C. D de placito captionis aterior.
ipsius A. B. in cuius rei testimonium E. B. S. D. I. W. & I. R.
quatuor legales homines ex illis qui Record. ill. interfuerunt
in plena curia apud castrum Eborum in com. præd. x die Aug.
anno, &c. eidem Recordo sigilla sua separaliter apposuer. die
& anno supradict.

Note, That though the Plea be discontinued in the County, yet the Plaintiff or Defendant may remove the Plaintiff into the Common Pleas or King's Bench by a Recordari, &c. and it shall be good, and be shal declare upon the same. And the Court shall hold Plea upon the same

When a
Recordari
may be
brought,
same

What removed thereby.

same Plaintiff; for if the Plaintiff be continued in the County, and Issue joined upon it, yet nothing shall be removed but only the Plaintiff, and in the Common Pleas the Plaintiff may declare anew, &c.

Likewise if the Recordare bear Date before the Plaintiff was entered in the County, it is good enough, and the Record is well removed.

The Nature of a Pone.

Recordare and Pone how they differ.

A Pone doth nothing differ from a Recordare, but that a Pone is always to remove such Suits as are before the Sheriff by Writ of Justicies, and not by Plaintiff only; but the Recordare is to remove the Suit that is by Plaintiff only without Writ. F. N. B. 70. 11.

The Return.

Virtute hujus brevis misericordie. posui coram Justiciar. &c. de Banco apud Westm. loquel. quæ est in Com. meo per breve Domini Regis de Justic. inter A. B. & C. D. de placito debiti, ut dicitur, prout patet in quadam Scedula huic brevi annex, &c.

The Schedule.

Ad Com. meum tent. apud Castrum Eborum in Com. præd. die Lunæ xii die Aug. anno Regis nunc Caroli Secundi Angliae, &c. xiv. &c. A. B. queritur versus C. D. de placito debiti; in cuius rei testimonium R. L. S. R. T. O. & S. D. quatuor legales homines ex ill. qui record. ill. interfuer. in plena curia ligill. sua separalit. apposuer. die & anno supra dict. &c.

A. B. queritur versus C. D. de placito debiti xx l.

Remedy for proceeding after a Pone.

That if a Plea be removed by Pone at the Instance of the Defendant, or by the Plaintiff, and afterwards they proceed in this Court in the Plea, and give Judgment, and award Execution, &c. then the Defendant, or he against whom the Judgment was given, and Execution awarded, shall have an Attachment against the Sheriff directed to the Coroner, to answer as well the King for the Contempt, as the Party his Damages, &c.

Of the Writ of Prohibition.

THE Writ of Prohibition is of the same Nature of a Recordare, and a Pone, but not much in use.

Of the Consultation, or Procedendo.

THese two Writs are both of one Nature, though the Writ of Consultation be obsolete, and the Writ of Procedendo slept up into its Place: It lieth where a Cause hath been formerly removed by Pone or Recordare from this Court into the King's Bench, or Common

Common Pleas, and for want of sufficient Cause of Removal is sent back again. Fitz. old Natura brevium 50.

The Nature of a Writ of false Judgment.

A Writ of false Judgment lieth where an erroneous Judgment is given in this Court (being no Court of Record) then the Party grieved by the Judgment may have this Writ, and remove all Process of the Suit into the Common Bench, and there it shall be examined; if it be found erroneous, the Judgment shall be reversed, and the Suitors of the Court who gave the Judgment amerced.

Note, That a Writ of False Judgment lieth not, but in a Court where there are Suitors; for if there be no Suitors there, the Record cannot be certified by them. F. N. B. 43 H. 8.

Virtute hujus brevis mihi direct. Recordari feci loquela^m The Return quæ est in Com. meo una cum process. & judic. inter partes subscript. & eisdem partibus diem præfixi quod sint coram Ju-
sticiar. infrascript. ad diem & locum infra content. prout hoc
breve exigit & requirit; quæ quidem loquel. cum process. &
judic. superinde patet in quadam Schedul. huic brevi annex.

Loquela per breve in Com. meo tent. apud Castrum Ebor. The Sche-
in Com. præd. die Lunæ xxiiij die Aug. anno, &c. coram secl. due.
ejusdem cur. tempore quo I. B. Ar. fuit Vic. Com. secundum
consuetud. & privileg. ejusdem cur. a tempore cuius contrar.
memoria hominum non existit usitat. & approbat. in eadem.

Ad hanc Curiam venit A. B. in propria persona sua & protulit hic in Cur. breve Dom. Regis nunc de Justic. quod quidem breve sequitur in hac verba: Carolus Secundus Dei gratia Anglia, &c. Vic. Ebor. salutem A. B. questus est nobis quod C. D. super ipsum eund. A. B. apud Castrum Eborum insult. fec. & ipsum verberavit, vulneravit, & male tractavit ita quod de vita ejus desperabatur & al. enormia ei intulit ad grave dampnum & nocumentum dicti A. B. ideo tibi præcipimus quod loquela præd. audias & postea eas iuste deduci fac. pro eadem ne amplius inde clamorem audiamus pro defect. Justicæ. Teste meip. apud Westm. x die Aug. Anno Regni nostri xiv. Et inde iaven. pledg. ad prosequend. loquel. præd. scil. J. Doe & R. Roe, Et super hoc dictus A. B. in loco suo posuit S. D. Attor. suum in loquel. præd. & per eund. Attor. suum petit process. superinde sibi fieri Et præcipitur per dict. I. B. Ar. Vic. Com. præd. omnibus & singulis ballivis suis con-
junct. & divisim quod illi vel eor. aliquis justic. facerent idem C. D. ita quod sic & compareat ad prox. Com. tenend. apud Castrum Eborum die Lunæ xx die Septembbris tunc prox. futur.

Writ of
Justicæ.

Warrant
upon the
Writ.

tur. in eodem anno respondend. eidem A. B. in loquel. præd. Ad quem diem ven. præd. A. B. per Attor. suum præd. & obtulit se versus dictum C. D. in loquel. præd. Et adtunc & ibidem ven. I. P. unus ballivorum in Com. præd. I. B. Vic. dict. Com. & return. dict. præcept. ei direct. ut dicit. servit. & execut. super eum & idem C. D. effoniavit quia venire non potuit usque ad prox. Com. tenend. apud Castrum præd. Ad quam quidem prox. Cur. videlicet. die Lunæ x die Octobris tunc prox. sequen. anno supradict. ven. præd. A. B. per Attor. suum præd. & se obtulit versus præfat. C. D. in loquel. præd. & præfat. C. D. adtunc & ibidem in propria persona sua ven. ad respondend. eidem A. B. in loquel. præd. & loco suo posuit I. R. Attor. suum versus eundem A. B. in loquel. præd. A. C. per præd. Attor. suum de eadem Curia pet. quod dictus A. B. narraret versus ipsum super dictam loquela suam & inde dictus A. B. per Attor. suum præd. narravit versus præfat. C. D. super loquel. præd. modo & forma sequent.

Ebor. s. t.
Narratio.

Empar-
lance.

Non sum
informatus.

Jury to
enquire
Damages.

A. B. Virtute brevis Dom. Regis de Justic. per S. D. Attor. suum queritur versus C. D. de placito transgr. & insult. pro eo quod præd. C. D. x die Octobris anno, &c. apud Castrum, &c. in & super eundem A. B. insult. fec. & ipsum verberavit, vulneravit, & male tractavit ita quod de vita ejus desperabatur & al. enormia ei intulit ad grave dampnum ipsius A. B. unde idem A. B. dicit quod dampnum habet ad valenc. xx/. & inde producit sectam. Unde ad eandem Curiam super requisitionem defendantis dies dat. iisdem partibus in loquel. præd. usque ad prox. Com. tenend. coram sectator. præd. die Lunæ xv die Novembris tunc prox. sequend. salvo descendent. &c. ad quem diem ad Cur. præd. coram sectator. præd. tent. apud Castrum Eborum præd. ven. tam præd. A. B. per Attor. suum præd. quam præfat. C. D. per Attor. suum præd. & adtunc & ibidem præfat. I. B. Ar. ab offic. Vic. Com. præd. amot. fuit, & R. L. Ar. deb. eleet. & intrav. in offic. Vic. Com. Ebor. præd. unde ad eandem Curiam super requisitionem partium, ulterior dies dat. eisdem partibus in loquela præd. usq; ad prox. Com. die Lunæ xiii die Decembris tunc prox. sequen. anno prædicto tenend. coram sectatoribus præd. salv. partibus, &c. ad quem diem ad eandem Curiam coram sectator. præd. tent. apud Castrum Eborum præd. ven. tam præd. A. B. per dictum Attorn. suum quam præd. C. D. per Attorn. suum præd. & præfat. C. D. per Attorn. suum præd. ven. & defend. vim & injuriā quando, &c. & idem Attorn. dixit quod ipse non est inform. per magr. suum de aliquo respons. pro eodem C. D. eidem A. B. in loquel. præd. dand. per quod præfat. A. B. versus præd. C. D. reman. inde indefens. ob quod præfat A. B. recuperare debet versus præd. C. D. dampna sua occasione transgr. & insult. præd. sed quia Cur. præd. incognit. exsistit que

False Judgment.

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quæ dampna præfat. A. B. sustinuit ratione præmissor. Ideo ad prox. Com. tent. apud Castrum Eborum præd. in Com. præd. coram secessoribus præd. die Lunæ x Januarii tunc prox. sequend. anno præd. requisit. fuit per Sacram. I. W. R. S. S. G. M. L. T. P. &c. duodecim probor. & legalium hominum Com. præd. existen. in Cur. & in plen. Com. jurat. ad inquirend. quæ dampna præfat. A. B. sustinuit occasione transgr. & insult. & vulnerat. præd. dicunt super sacram. sua quod præfat. A. B. dampna sustinuit occasione præd. transgr. & insult. & vulnerat. ad decem libr. & pro mis. & custag. per ipsum in ea parte expend. ad duos denar. Ideo considerat. est per eandem Curiam quod præfat. A. B. recuperet versus eundem C. D. dampna & custag. præd. per Jurator. prmd. in forma prædicta assentiat. ac etiam quadragint. solid. per Cur. præd. eidem A. B. ex assensu suo pro incremento custag. sibi adjudicat. quæ dict. dampna & custag. attingunt ad xii l. ii d. Et præd. C. D. in mis. &c. In cuius rei testimonium, &c.

The Nature of an *Accedas ad Curiam*.

THIS Writ issues out of the Chancery, directed to the Sheriff, commanding him to go to such Court of some Lord or Franchise, or Hundred, a Court-Baron, or the like (being no Court of Record) where a Plaintiff is sued, or a false Judgment is supposed to be given in some Suit which hath been in the Court; and by this the Sheriff is there to make Record of the same Suit, in the Presence of the Suitors of the same Court, and four lawful Men of the County; and of this he is to make a Certificate into the Court above, under his Seal, and the Seals of four of the Suitors of the same Court at the Day appointed by the Writ. F. N. B. 71. Plowden 74. Finch. 444.

This Writ cannot be had without shewing some special Cause for the removing of it: as, that a Freehold is in Question there, or some Foreign Plea pleaded not triable in that Court, or such like. F. N. B. 70. 119.

The County-Clerk is to make a Precept upon the Writ in this Manner:

I. B. Ar. Vic. com. Ebor. Senescallo & Ballivo cur. Honor. de P. salutem Virtute brevis mihi direct. vobis mando quod assumptis vobiscum quatuor discretis & legalibus liberis tenentibus de comitat. præd. accedatis ad cur. præd. & in p'en. cur. ibidem recordari facias loquelam quæ est in eadem curia sine brevi inter I. S. & G. M. de quadam transgr. super casum illat. per dictum I. S. eidem G. M. ut præfertur & quod Recordum illud mihi certificetis. ita quod idem habeam coram Justic. de Banco apud Westm a die Sanctæ Trinitat. in quindecim dies sub sigillis vestris & sigillis quatuor legalium hominum

Ebor. ff.
Precept
upon an
*Accedas ad
Curiam*.

Accessas ad Curiam.

num ejusdem cur. ex illis qui Recordo illo interfuerunt & quod eundem diem partibus præfigatis, quod tunc sint ibi parat. in loquela præd. prout justum fuerit processur. Et habeas ibi nomina quatuor hominum præd. & hoc præcept. Dat. sub sigillo officii mei secundo die Junii Anno Regni Domini nostri Caroli Secundi Dei gratia Angliae, Scotie, Francie & Hibernie Regis, Fidei Defensoris, &c. xiv.

Per Vic.

The Re-
turn Honor. Cur. Baron. G. S. I. K. &c. tent. apud P. pro honore de P. xii die Junii Anno Regni Domini nostri Caroli Secundi Dei gratia Angliae, Scotie, Francie & Hibernie Regis Fidei Defensor. &c. xiv.

The Plaintiff. R. S. queritur versus L. N. de placito transgr. super casum ad dampnum xxx s.

Virtute hujus præcepti mihi direct. ad curiam præd. tent. die & anno præd. in plen. cur. ibidem Recordari feci loquelam uade interins fit mentio quæ loquel. patet suprascript. & illud Record. retornavi sigillat. sigillo meo & sigillis prædictor. quatuor legalium hominum, qui eadem curia recordo illo interfuer. Et partibus infrascript. die præfixi in brevi specificat. quod tunc sint parat. prout justum fuerit processur. in loquel. præd. sicut interius mihi precipitur.

W. O. Seneschal.

I. H. T. H.  Suitors.
I. G. R. H.

Record to
be deli-
vered in
Court.

Virtute hujus brevis mihi direct. in forma infrascript. accessi ad curiam infrascript. & in plena curia ill. Recordari feci loquelam infrascript. & Record. illud (prout patet in Scedula huic brevi annex.) coram Justic. Dom. Regis habeo ad diem & locum infra content. sub sigillo meo & sigillis T. R. A. B. C. D. & E. P. quatuor legalium hominum com. mei ex illis qui Record. interfuerunt & partibus, &c.

Oribus, if the Record be not returned.

Virtute hujus brevis mihi direct. in propria persona mea assumptis mecum R. S. &c. quatuor probis & legal. Milit. com. mei accessi ad cur. Baron G. S. I. K. &c. tent. apud P. pro honore de P. loquelam infrascript. Recordari ad diem & locum infra content. prout interius mihi præcipitur unde seftator. ejusdem cur. apud P. præd. in plen. cur. me infrascript. Vic. idem breve ibidem exequi vel quoad loquel. præd. aliquo modo

modo intermittere omnino denegaver. per quod execut. istius brevis facere non possum, &c.

It is a good Return for the Sheriff to say, That after the Receipt of the Writ, and before the Return thereof, that no Court was holden; and that also be required the Lord to hold his Court, and he would not, so as he could not execute the same.

*The Return of a Writ for the Election of a Coroner,
after the Death of another.*

AD. COM. MEUM TENT. (TALI DIE & ANNO) IN PLENO COM.
PRAED. VIRTUTE ISTIUS BREVIS DE AFFLISU EJUSDEM COM. LOCO
P. H. INFRA NOMINAT. (QUI DIEM CLASIFIT EXTREMUM) ELEGI CORO-
NAT. VIZ. I. M. QUI (PROUT MORIS EST) SACRAMENT. PRÆSTITIT COR-
PORALE QUOD IPSE EA FACIET & CONSERVAVERIT QUAE AB OFFICIO CO-
RONAT. IN COM. PRAED. SPECTANT. FACIEND. PROUT INTERIUS, &c.

The Return of the Writ of Exigent.

VIRTUTE ISTIUS BREVIS MIHI DIRECT. AD COM. MEUM EBORUM
TENT. APUD CASTRUM EBORUM IN COM. EBOR. INFRASCRIP.
DIE LUNÆ, &c. ANNO, &c. INFRASCRIP. I. C. & CÆTERI DEFEND.
INFRA NOMINAT. (IF THERE BE ABOVE TWO IN THE WRIT) PRIMO EXACT.
FUER. & NON COMPARUER. AD COM. MEUM EBORUM IBIDEM TENT.
DIE LUNÆ, &c. ANNO PREDICTO PREDICTIS I. C. & CÆTER. DEFEND.
INFRA NOMINAT. SECUNDO EXACT. FUER. & NON COMPAGNUER. AD COM.
MEUM EBORUM. IBIDEM TENT. DIE LUNÆ, &c. ANNO PRED. PRED.
I. C. & CÆTER. DEFEND. INFRA NOMINAT. TERTIO EXACT. FUER. & NON
COMPARUER. AD COM. MEUM EBORUM IBIDEM TENT. DIE LUNÆ,
&c. ANNO PRED. PRED. I. C. & CÆTER. DEFEND. INFRA NOMINAT.
QUARTO EXACT FUER. & NON COMPARUER. AD COM. MEUM EBORUM
IBIDEM TENT. DIE LUNÆ, &c. ANNO PREDICTO PRED. I. C. & CÆTER.
DEFEND. INFRA NOMIN. QUINTO EXACT. FUER. & NON COMPARUER.
IDEO PRED. I. C. & CÆTER. DEFEND. INFRA NOMIN. PER JUDIC. I. W.
& W. R. GEN. CORONAT. DICT. DOM. REGIS COM. PRED. SECUND.
LEGEM & CONSuetudinem REG. DOMINI NOSTRI REGIS ANGLIE UT-
LAGAT. SUNT & QUILIBET EOR. UTLAGAT. EST.

L. B. Ar. Vic.

VIRTUTE ISTIUS BREVIS MIHI DIRECT. AD COM. MEUM TENT. APUD EBOR.
IN COM. EBOR. INFRASCRIP. DIE LUNÆ, &c. ANNO INFRASCRIP.
PRED. I. R. INFRA NOMINAT. PRIMO EXACT. FUIT & NON COMPARUIT,
ISTUD BREVE PROUT SUPERIUS INDORSATUR MIHI DELIBERAT. FUIT PER
L. B. AR. NUPER VIC. COM. INFRASCRIP. PROX. PREDECESSOR. MEUM
IN EJUS EXITU AB OFFICIO SUO: & AD COM. MEUM (AS BEFORE.)

Or

Or thus.

Istud breve sic superius indorsat. una cum brevi dict. Domini Regis de supersed. eidem annex. mihi liberat fuit per I. B. Ar. nuper Vic. com. præd. prox. predecessor. meum, &c.

Outlawry returned against a Woman.

Ideo secundum legem & consuetudinem Anglie. præd. B. D. waviatur.

Defect of
the Coro-
ner.

Virtute, &c. ad com. meum tent. die Lunæ, &c. eodem anno, &c. infra script. præd. I. C. quinto exact. fuit & non comparuit & pro defectu M. B. & R. C. Coronat. com. præd. ulteius inde prosequi non potui.

Defect of
the County.

Virtute, &c. & ad com. meum, &c. & quod non fuer. plures comitat. in com. præd. tent. a die receptionis hujus brevis præd. usq; ad diem return. ejusdem per quod nihil actum est ad præsens.

Or thus.

Supercedens

Et ideo in executione hujus brevis ulterius faciend. nihil act. est.

Virtute, &c. ad com. meum præd. tent. die Lunæ, &c. anno, &c. infra script. præd. C. D. quarto exact. fuit & comparuit, & protulit mihi breve Dom. Regis de supersed. huic brevi annex. per quod ad executionem hujus brevis ult'jus faciend. omnino supersed.

Or thus.

Prout in præd. brevi Domini Regis, &c. de supersed. mihi precipitur.

Where one
renders
himself,
and the
rest appear
not.

Virtute, &c. ad com. meum Eborum ibidem tent. &c. præd. I. H. & cæter. defend. infra nominat. quinto exact. fuer. ad quem diem præd. I. H. comparuit & se reddidit prisonæ Dom. Regis, &c. de Castro Eborum cuius corpus coram Justic. infra script. ad diem & locum infra content. parat. habeo prout interins mihi p'cipitur sed cæter. defend. infra nominat. non comparuer. ideo, &c. as before they are outlawed.

Et

Et preter I. S. qui se reddidit prisonæ, &c. Castrum Eborum cuius quidem corpus coram Justic. infra script. ad diem & locum infra content. parat. habeo prout hoc breve exigit & requirit: Et preter I. C. qui mortuus est & non comparuit ideo prejudic. &c. & pred. T. C. waviat. est in present. T. B. & F. W. Coronat. &c. Com. pred.

Ad Com. &c. 1, 2, 3, 4. exact. suit & comparuit & reddidit se prisonæ, &c. Castrum Ebor. ubi tam languidus est, quod propter timorem mortis ejus coram Justic. infra script. ad diem & locum infra content. habere non possum.

The Return of the Writ of Proclamation.

Virtute hujus brevis mihi direct. ad Com. meum Ebor. tent. apud Castrum Eborum iufrascript. die Lunæ, &c. anno, &c. infra script. primo Proclamari feci & ad Com. meum Eborum tent. apud Castrum Eborum pred. in dicto Com. Eborum die Lunæ, &c. anno, &c. infra script. secundo Proclamari feci & ad General. Session. pacis tent. apud Skipton pro le West-riding ejusdem Com. infra script. die Martis, viz. x die Sept. pred. anno, &c. infra script. publice Proclamari feci quod I. C. & omnes al. defend. infra nominat. seipso redditum infra nominat. vic. London, ita quod iidem Vic. corpora eorum habeant coram Justic. infra script. ad diem & locum infra content. prout hoc breve exigit & requirit.

The Manner of proceeding upon the Writs of Recordari, Pone, Writ of False Judgment, &c. in the Common Pleas, after the Removal out of the County-Court.

YOU must repair to the County-Clerk, or his Deputy, and demand a Return of the Writ of Recordare or Pone.

If upon the Return the Defendant appear, then must you declare; and when your Declaration is drawn, enter it upon a Roll in one of the Prothonotaries Offices, and see that it be docketted together with the Number of the Roll.

If the Writ be returnable in the Beginning of a Term, (especially in issuable Terms) the Defendant is to answer the same Term, unless the Defendant hath Imparience to plead until the following Term.

Rules to answer must be entered in the Remembrance in the Prothonotaries Office, enring in the Margent or over the Head of the Rule, the usual Rule, That if the Defendant do not plead (within some few Days) let Judgment be entred. And if no Plea be brought

in within the Time, then may you sign Judgment with the Prothonotary in Default of Answer.

Procedendo. If the Defendant appear not upon the Return of the Writ, then may the Plaintiff have a Procedendo to carry the Cause back again into the County-Court.

Non prosc. If the Plaintiff's Attorney appear and declare not against the Defendant, upon his Appearance, within a reasonable Time of the Term; then may the Defendant's Attorney enter a Rule in the Bill of Pleas against the Plaintiff to declare; and if he declare not, then may he enter a Non prosc. and sign it with the Prothonotary, and Costs given for the unjust Execution; but if the Plaintiff will not retain an Attorney upon the Removal nor declare, then it is his own Delay, and he should be nonsuited in that Case.

If the Defendant plead the General Issue, then must the Attorney for the Defendant set his Hand to the Docker-book of the Plaintiff's Attorney, who draws up the Plea, makes a Copy of the Issue, and delivers it to the Defendant's Attorney; and then they usually give Notice of Trial.

If the Defendant plead specially, he is to bring it to the Plaintiff's Attorney, under a Serjeant's Hand; and if the Plaintiff reply specially, it must likewise be under the Serjeant's Hand: The like upon a Demurrer to a Declaration, and Rejoinder in Demurrer.

How to proceed to Trial by Nisi prius. If your Trial be by Nisi prius, at the Assizes in the County, and the Jury appear not full upon the Panel, then may you require a Decem Tales de Circumstantibus, viz. Ten of the Standers by to fill up the Jury, or more, or less, as is requisite; which Tales must be mentioned upon the Return of the Writs, and the Judgment upon it in the Issue-Roll.

Ven. fac. Having entered your Declaration, with the Issue joined, in the Prothonotaries Office, then make out a Venire facias upon your Issue, and get it signed with the Prothonotary, and seal it; then get it returned by the Sheriff of the County where the Action is laid, and upon the Return of it, sue forth an Habeas Corpora, and deliver the same to the Sheriff to summon the Jury, and get it returned at the Assizes.

In suing forth your Nisi prius, ingross your Record, according to the Copy of the Issue made up, and the Entry of it upon the Roll in the Prothonotaries Office, and examine it; if it be upon an Issue joined the same Term, and the Prothonotary's Hand must be to it, then carry the same to the Clerk of the Treasury, to sign and make up the Record.

If the Issue was entered of a Term past, then must you deliver the Paper Book of the Issue to the Clerk of the Treasury, to examine the same by the Roll, and to make up the Record, which must be signed by him; then must it be sealed by him, and then deliver it together with the Habeas Cor. Jur. returned by the Sheriff to the Clerk of the Assizes for that County where it is to be tried, paying the Judge's Marshal.

Then retain the Counsel, and have your Witnesses ready for the Trial.

The Trial being had, and Verdict passing for your Client, the next Verdict Term you are to call of the Clerk of the Assize for a Return of the Postea, and thereupon the Prothonotary will assess Costs, and cause Judgment to be entered, upon which you may have Execution by Capias ad Satisfaciendum, Fieri facias or Elegit, &c. according as you desire, and as the Nature of the Action brought doth allow or require.

Note, That a Capias ad satisfaciendum is only against the Body, who must be imprisoned until Satisfaction be made; and if the Defendant cannot be found, the Plaintiff cannot have another Execution. 20 E. 2. For he may chuse at the first, whether he will have a Capias or an Elegit; but if he takes the Capias, he shall not have an Elegit afterwards, nec e converso. 15 H. 4. 15.

The Writ of Fieri facias is only against the Goods; as Leases for Fieri fac. Years, or immoveable Goods; as Corn, Household-stuff, Cattle, Apparel, Money, Plate, &c. and it ought to be sued out within the Year after Judgment. Co. 3. 13. After the Fieri facias a Man may have an Elegit; but on the contrary, after the Elegit he cannot have a Fieri facias, because the Elegit is of a higher Nature than the Fieri facias.

An Elegit is a Writ whereby the Plaintiff is to have Execution Elegit. of the half of all the Defendant's Lands and Chattels (except Oxen and Beasts of the Plough) till the Debt and Damages be wholly levied and paid to him; and during the Term he is Tenant by Elegit. Vide Terms of the Law.

The Proceedings upon the Writ of False Judgment.

YOU must call of the County Clerk for the Return of the Writ, together with the whole Record of all the Proceedings from the Original and Beginning of the Cause in the County Court.

The Writ being returned, you must assign Errors, and take Copies thereof, and thereupon sue forth a Scire facias to the Plaintiff in the Action to hear Errors; to which the Plaintiff may appear, and plead the common Plea, which is, That the Action and Proceedings in the County Court are nothing erroneous. Then must the Defendant endeavour to get a Rule, or Day given for the arguing of the same Errors.

But if the Defendant doth delay, and doth not call for a Return of the Writ, nor proceed, then the Plaintiff may sue forth another Scire facias against the Defendant to shew cause why he should not have Execution upon the Judgment had in the County Court; and if at the Return of the second Scire facias Errors be not assigned, then Judgment is confirmed in that Court into which the Writ is returnable.

B

Writs.

If Errors be found and allowed to be sufficient and good, then is the said Judgment to be reversed and made void: But if Errors be not found good, then is the Judgment in the County-Court affirmed, and further Costs for Delays of Execution allowed to the Plaintiff, who may presently sue for Execution out of that Court into which the Writ was returned against the Defendant.

Note, That if the Judgment be reversed and made void, yet notwithstanding it takes not away the Plaintiff's Cause of Action, for he may commence a new Action against the Defendant for the same Cause.

The Nature of a Writ of False Judgment, and the Manner and Form of drawing up Records upon a Writ of False Judgment.

Record
upon a
Writ of
False Judg-
ment.

Preceptum est Vic. quod si A. B. eundem Vic. fecerit locu-
rum de clamore suo prosequendo tunc in plen. Com. suo
recordari faciat loquelam quae fuit in dicto com. per breve
Dom. Regis nunc inter W. B. & eundem A. B. de quadam
transgr. super casum eidem A. B. per eundem W. B. commiss.
&c. Et unde idem A. B. questus est quod judic. fallsum sibi
fact. Fuisse in eodem com. & quod habeat hic ad hunc diem,
scilicet, Octab. Pur. beatis Marie sub sigillo suo, & per qua-
tuor legales Milst. ejusdem com. qui Recordo illi interfuerint &
quod habeat hic Summonitor. nomina quatuor Milium &
hoc breve, & al. breve.

Et nunc hic ad hunc diem ven. tam pred. A. B. per S. D.
Attorn. suum quam dictus W. B. summonit. &c. per J. S.
Attorn. suum & Vic. scilicet, Geo. Mar Ar. modo retornavit
quod pred. A. B. invenisset eidem Vic. pleg. de dicto brevi
suo prosequend. scilicet, Jo. Doe & Rich. Roe, & quod ipse
virtute brevis illius sibi direct. ad com. suum tent. apud Cntr.
Eborum in com. pred. x die Maii Anno Regni Domini nostri
Ca:oli Secundi nunc Regis Anglie, &c. xiii eandem loquela
recordari fecit quae fuit in dicto com. inter eosdem A. B. &
W. B. & Record. ejusdem loquel. coram Justie. hic ad hunc
diem paratum habet sub sigillo, & sigillis H. M. & quatuor le-
galium Milium dict. com. ex illis qui Recordo interfuerint
& quod summonuit eundem W. B. quod sit hic ad hunc diem
auditur. Record. illud per R. S. & F. L. propt. per dictum
dreve sibi preceptum fuit, &c. quod quidem Record. sequitur
in haec verba.

Justices.

Carolus Secundus Ds, &c. Vic. Eborum salutem Questus
est nobis W. B. quod A. B. de C. in Com. tuo Hardeymans
quamvis pred. W. B. verus & fidel. subditus noster, & tan-
quam verus & fidel. subdit. noster a tempore Nativitat. sus-
huc.

hucusque vixerit & se gesserit, & bonorum nominis & famæ apud quamplurim. subdit. nostrorum not. fuit habit. & reputat. pred. tamen A. B. præmissorum non ignarus, sed machinans & malitiose intendens ipsum W. B. non solum de bonis nomine, fama & estimatione suis totaliter destruere verum etiam eundem W. B. in perturbationem, vexationem & infamiam apud vicinos suos & quamplurimos al. fideli subdit. hujus Regai nostri inducere haec falsa ficta & scandalosa verba de eodem W. B. apud C. in presen. & audit. diversorum fideli. subdit. hujus Regai nostri dixit, retulit, & alta voce propalavit in haec Anglicana verba sequent. viz. W. B. (eund. W. B. innuend.) *bath stolen my Horse*: quorum quidem falsor. & scandalorum verborum dictiōnis publicationis & propagationis pretextu p̄fāt. W. B. non solum in bonis nomine & fama suis Iesu est ver. etiam in actionibus & negotiis suis cum honestis personis quibus idem W. B. emendo, vendendo & licite barganizando antea usitat. Iesu & deteriorat. existit ad grave dampnum ipsius W. B. &c. Ideo præcipimus tibi quod loquellam illam audias, & postea eandem deduci facias ne amplius inde clamorem audiamus pro defectu Justic. Teste meipso, &c.

*Placita tent. apud Caſtr. Ebor. in Com. Ebor. die Lunae
2 die Junii, anno Regis Caroli Secundi, xiii. coram
A. B. C. D. E. F. & G. H. Seſtatoribus ejusdem
Curiae.*

AD hanc curiam W. B. per P. P. Attorn. suum queritur versus A. B. de placo transgr. super casum, pro eo, videlicet, quod cum idem W. B. bonus verus & fidelis subdit. Dom. Regis nunc & al. Regum Angl. a tempore Nativit. suis hucusq; gubernavit & se gessit & bonorum nominis famæ, credent. & reputationis honeste cum bonis & granderis hominibus tam vicin. suis quam al. fideli. subdit. Dom. Regis nunc habit. not. existimat. & reputat. absq; aliqua falsitate furto perjur. felon. fraude five macula cūjuscunq; culpe five criminis nocivi immaculat. & intact. per totum tempus predictum gesserit & gubernavit; præd. tamen A. B. præmissorum non ignarus ex mera nequissima malitia præcogitata intendens nomen & famam ejusdem W. B. lēdere detrahere pejorare obte-nebrare & totaliter destruere ac etiam in perturbationem vexationem & infamiam traducere & inducere quæd. falsa & scandalosa verba & mendacia de eodem W. B. octavo die Aprilis anno Regni Caroli Secundi nunc Regis Anglie xiii apud, &c. & infra libertat. & Jurisdiction. hujus Cur. in present. & audit. quamplurimorum fideli. subdit. dict. Dom. Regis, dixit retulit & propalavit, videlicet, W. B. (eundem W. B. innuend.) *bath stolen my Horse out of my Close, which I will prove;* quo-um quidem

quidem fallorum & scandalosorum verborum dictio[n]is & pro-palationis prætextu idem W. B. non solum in bonis nomine & fama Iesu est, verum etiam in negotiis suis perficiend. cum honestis personis omnibus dictis W. B. in emend. vendend. & licite barganizand. multum impedit ac etiam quasdam al. person. & subdit. dicit. Dom. Regis nunc ea occasione seipso a confortio ejusdem W. B. subrepserunt & confortium cum eo habere penitus recusaverunt & adhuc recusant; unde, &c. ad damnum 39 l. & inde prod. sectam, &c. Et præd. A. B. per S. D. Attorn. suum ven. &c. Et dic. quod præd. W. B. actionem suam prædictam versus eum habere non debet quia dic. quod ipse non est culpabilis de dictio[n]. & propalation. verborum in narration. præd. superius specific. nec de aliqua parte eorum modo & forma prout præd. W. B. superius versus eum queritur Et hoc, &c. Ideo secundum consuetudinem præcept. est Balliv. Wapentag. de Ouze & Dar quod ven. fac. coram Seneschal. ejusdem Cur. ad proxim. Cur. Com. mei præd. (tali die) xii, &c. Et quod tunc habeat ibi idem præcept. una cum panel. de nominibus Jurat. præd. Ad quam Curiam Com. tent. apud Castrum Eborum præd. secundum consuetudinem coram sectatoribus ejusdem Cur. die Lunæ secundo die Aprilis ven. tam præfat. W. B per Attorn. suum, &c. ac idem Balliv. Wapentag. præd. præcept. sibi direct. retornavit in omnibus execut. una cum panella de nominibus Jurator. præcept. annex. scilicet in eadem panella nominantur L. M. N. R. &c. ad faciend. Jur. inter partes præd. in loquela præd. qui ad dicend. veritat. præmissor. elekt. triat. & Jurat. dicunt super sacramentum suum quod præd. A. B. est culpabilis de dictio[n]e & propalatione dictorum verborum in narratione pred. specific. & assidunt dampna dict. W. B. occasion. dictio[n]is eorundem verborum ultra mil. & custag. per ipsum circa sectam suam in hac parte expens. ad 4 l. 5 s. & pro iisdem misis & custag. ad octo denar. Ideo cons. est per eandem curiam quod dictus W. B. recuperet versus eundem A. B. dampna sua præd. per Jur. præd. in forma præd. assessa & etiam tres solid. & octo denar. pro misis & custag suis, quæ quidem damna in toto attingunt ad 5 l. 17 s. 4 d.

In cuius rei testimonium sigill. Seneschal. cur. præd. est apposit.
Dat. apud castr. Ebor. xii die Marcii, Anno Regis Caroli
Secundi Anglia, &c. xiv.

Errors
scgoed.

Et unde idem W. B. pet. quod dictus A. B. ostendat cur. hic & assignet defectus ubi falsum judicium fact. est in dicta loquela si quodvis sibi fact. fuerit: Unde præfat. A. B. dic. quod idem record. vitiosum & valde defectivum existit scilicet, in eo quia non liquet per Record. coram quibus cur. prima fuit tent. ac in hoc quod præd. W. B. in Narratione sua questus est

sc

se damn. habere & deterior. fuisse ad valenc xl l. cum per Leges hujus Regni eadem curia placita non potest tenere de xl s.

In hoc etiam quod per idem Record. patet quod præd. W.B. comparuit per P. P. Attorn. suum & idem A. B. comparuit per S. D. Attorn. suum sed in Recorde nulla mentio fit ullius Warran. Attorn. pro eodem W. B. aut pro eodem A. B in loquela prædicta. Et idem A. B. dic. quod per multos varios modos in Cur. Com. præd. fals. judic. in loquel. præd. sibi fact. & unde pet. quod dictum judicium pro dictis defectibus & al. in eodem Record. existent. tanquam fals. & erron. adnihiletur & omnino pro nihilo habeatur: Et quod idem A. B. ad præd. 5 l. 17 s. 4 d. quæ dictus W. B. virtute judicij prædicti pro dampnis suis occasione præmissorum versus eum recuperavit & ad omnia quæ ipse occasione ejusdem judicij amisit, restituatur, &c.

Et idem W. B. dic. quod in recordo prædicto nullus est error, nec eidem A. B. in eadem curia Com. falsum factum est judicium in loquela pred. & pet. quod Justic. hic procedant ad examinand. idem Record. & ad reformat. & corrigend. falsum judicium, si quodvis falsi in eo inveniatur, probatur, vel manifestatur. Et quia Justic. hic seipso advise volunt de & super præmiss. antequam ulterius procedant dies dat. est, &c. in Octab. Pur. ad audiend. inde quid cur. de hoc & super præmissis considerabit, quia Justic. adhuc inde nondum, &c. Ad quem diem ven. hic tam præfat. A. B. quam pred. W. B. per Attorn. suos præd. Et quia Justic. hic ulterius seipso advise volunt de & super præmiss. pred. priusquam judicium inde reddant dies ulterius dat. est, &c. in Mens. Pasch. ad audiend. inde quid cur. inde de & super præmiss. pred. considerabit quia Justic. hic inde nondum, &c.

If any Errors and Defects be found in the Proceedings, then will the Judgment be reversed, and a Writ of Restitution awarded.

Præcept. est Vic. si A. B. & C. D. inveniant securitat. Vic. Upon a de clamore suo prosequend. tunc in plen. com. suo recordari Replevin. faciat loqueland quæ tuit in eadem curia sine brevi Domini Regis inter E. F. & eundem A. B. & C. D. de averiis ejusdem E. F. capt. & injuste detent. &c. Et unde iidem A. B. & C.D. questi sunt fals. sibi factum fuisse judicium in eadem Curia. Et quod habeat hic ad hunc diem, scilicet in Octab. Hill. record. illud sub sigillo suo & sigillis quatuor leg. l. Militum qui Recordo illi interfuerunt; & quod summoneat per bonos summonites præfat. E. F. quod sit hic ad hunc diem, ad audiend. Record. &c.

Et modo hic ad hunc diem ven. tam præd. A. B. & C. D. per S. D. Attorn. suum quam pred. E. F. per P. P. Attorn. suum & Vic. scilicet G. M. Armig. nunc retornavit quod iidem A. B. & C. D. eidem Vic. invenit pled. ad prosequend. dictum breve, scilicet Jo. Doe & Rich. Roe, & quod summonivit eundem E. F. quod sit hic ad hunc diem per I. R. & I. S. probos, &c.

Vic. etiam retornavit quod ipse virtute ejusdem brevis sibi direct. in pleno Com. tent. apud Castrum Eborum in Com. præd. xii die Aprilis ult. præterit. loquelam predictam recordari fecit & habet Record. hic & ad hunc diem sub sigillo suo & signillis L. M. M. R. proborum & legalium Militum ejusdem Com. ex illis qui Recordo illi interfuerunt prout per breve illud ei præcept. fuit tenor cuius Record. sequitur in hac verba.

Ebor. ff. Memorandum quod Cur. tent. &c. xii die Aprilis anno Regni Regis nunc Caroli Secundi, &c. coram G. M. apud Castrum Eborum in Com. Ebor. ven. E. F. per P. P. Attorn. suum & queritur versus A. B. & C. D. de placito quare averia ejusdem E. F. ceperunt & ea injuste detinent contra vad. & pleg. quousq; &c. Et invenit pleg. eidem E. F. de clamore suo prosequend. ac etiam de averiis retornand. si retorn. inde per legem adjudicetur, scilicet, Jo. Doe & Rich. Roe, & adiuncta & ibidem pet. debit. legis process. inde faciend. versus A. B. & C. D. &c. Ideo secundum consuetudinem in Com. præd. a tempore cuius contrar. memoria hominum non existit usitat. & approbat. ex parte Dom. Regis nunc præcept. est I. S. Balliv. Wapentag. de W. & un. Ministr. ejusdem Vic. com. præd. quod ipse secundum istam consuetudinem ponet per vad. & salvos pleg. eosdem A. B. & C. D. quod sint coram me dicto Vic. ad proxim. Com. præd. videlicet apud Castrum Eborum xii die Aprilis anno, &c. supradicto tunc proxim. sequend. tenend. ad respondend. eidem E. F. in placito præd. idem dies dat. eidem E. F. tunc versus eosdem A. B. & C. D. ad prosequend. idem placitum. Ad quem diem hic viz. ad proximam Curiam Com. mei tunc tent. apud pred. Castrum Eborum ven. præd. E. F. per Attorn. suum pred. eodem xii die Aprilis & idem I. S. Balliv. Wapentag. pred. retornavit præceptum predictum sibi in forma pred. direct. in omnibus servit. & execut. scilicet quod ipse virtute ejusdem præcept. attachiavit eodem A. B. & C. D. per pleg. viz. Jo. Den & Ric. Fen, quod hic sint ad hunc diem, scilicet eodem xii die Aprilis in forma predicta prout per idem præceptum ei præcept. fuit.

Et

Et idem A. B. & C. D. in plena Curia ibidem exst. non ven. sed defalt. fecer. Unde idem E. F. per Attorn. suum præd. pet. ulter. process. faciend. super dictam loquela versus eosdem A. B. & C. D. & habet. &c.

Ideo secundum consuetudinem cur. com. præd. preecept. est eidem I. S. Balliv. Wapentag. de W. & un. Ministr. com. præd. quod secundum consuetudinem cur. illius, distingat eosdem A. B. & C. D. per omnia bona & catalla sua in balliva sua ita quod neq; &c. quousq; &c. ita quod sint coram me eodem Vic. ad prox. com. meum tenend. apud dict. Castrum Eborum scilicet x die Maii anno prædicto tunc prox. sequend. ad respondend. eidem E. F. in eadem loquela idem dies dat. eidem E. F. &c. Ad quem quidem prox. Com. præd. hic scilicet apud dictum Castrum Eborum eodem x die Maii anno supradicto tunc tent. ven. tam E. F. per P. P. Attorn. suum & pred. A. B. & C. D. obtulerunt seipso versus dict. E. F. in eadem loquela : & idem E. F. inde questus est & narravit versus præd. A. B. & C. D. de placito quare iidem A. B. & C. D. 4 Marcii anno, &c. apud T. Infra Jurisdictionem hujus Cur. in quodam loco vocat. le Hayes averia, viz. sex Vitulos Anglice Calves ipsius E. F. ceperunt & injuste detinuerunt contra vad. & pleg. quo usq; &c.

Distress awarded.

Unde ipse tunc dixit quod deteriorat. extitit & dampnum habuit ad valenc. 39*s.* 11*d.* & inde produc. sextam, &c.

Et unde idem E. F. tunc & ibidem in loco suo posuit enndem P. P. Attorn. suum versus eosdem A. B. & C. D. ad lucrand. vel perdend. in eadem loquela (*Here must likewise be a Warrant of Attorney for the Defendant*) Et unde iidem A. B. & C. D. per S. D. Attorn. suum præd. tunc in eadem Curia pet. licentiam interloquendi hic, usq; prox. Curiam com. coram dicto Vic. viz. xv die Maii anno supradicto tunc prox. sequend. tenend. apud Castrum Eborum & tunc ad respondend. &c. Et eis conceditur, &c. idem dies dat. eidem E. F. hic, &c. Ad quam quidem prox. com. coram dicto Vic. com. pred. hic scilicet apud Castrum Eborum præd. xv die Maii anno supradicto ven. tam dictus E. F. quam A. B. & C. D. pred. per predictos Attorn. suos Et dict. est dicto Attorn. præd. A. B. & C. D. per Cur. hic quod respondeat prædictis A. B. & C. D. magr. suis eidem E. F. in loquel. pred. Et idem Attorn. pro dictis magr. suis nihil dic. in Bar. (sicut aliis) per quod dictus E. F. dampna sua versus A. B. & C. D. occasione captionis & injustæ detentionis averiorum suorum præd. recuperare debet : sed quia incognit. existit Cur. hic quæ dampna idem E. F. su. finuit occasione præmissor. preecept. est dicto I. S. tunc Balliv. Wapen.

Wapentag. de W. præd. & un. Ministr. Cur. Com. præd. quod ven. fac. coram dicto Vic. ad prox. Com. præd. scilicet xv die Maii, anno supradicto apud Castrum Eborum præd. tunc prox. sequen. tenend. duodecim probos & legales homines de Vicin. de S. per neutr. part. suspect. ad inquirend. super sacram. suum quæ dampna idem E. F. sustinuit tam occasione captionis & injustæ detentionis averiorum præd. quam promisis & custag. per ipsum circa sectam suam in hac parte expens. idem dies dat. eidem E. F. hic, &c.

Ad quem quidem prox. Com. eodem xv die Maii anno prædicto coram dicto Vic. Com. præd. tent. ven. idem E. F. per Attorn. suum præd. & idem I. S. Balliv. Wapentag. prædict. præceptum suum inde non misit. Ideo sicut prins præcept. est præfat. I. S. Balliv. &c. quod ven. fac. hic ad prox. Com. coram eodem Vic. Com. præd. scilicet xii die Aprilis anno supradicto apud Castrum Eborum præd. tenend. xii, &c. ad inquirend. &c. in forma præd. &c.

Ad quem diem, scilicet, xii die Aprilis præd. coram eodem Vic. Com. præd. ven. præd. E. F. per Attorn. suum prædict. Et idem I. S. Balliv. &c. & un. Ministr. ejusdem Cur. retrnavit coram eodem Vic. dictum præcept. de ven. fac. in omnibus servit. & execut.

Et unde Jurat. inde impannellat. & exact. ven. & ad inquirend. in forma præd. jurat. & onerati dicunt super sacram. suum quod præd. E. F. ratione captionis & injustæ detentionis averiorum præd. dampna sustinuit ultra mis. & custag. per ipsam circa sectam suam in hac parte exposita, ad xxx s. & pro eiusdem misis & custag. ad xii d. Ideo considerat. est per Cur. hic quod præd. E. F. recuperet versus eosdem A. B. & C. D. dampna sua præd. per Jurat. præd. in forma præd. assensat. ac etiam xxvi s. eidem E. F. per Cur. hic pro præd. misis & custag. ex assensu suo de incremento adjudicat. quæ quidem damnata in toto attingunt ad 57 s. & iidem A. B. & C. D. in miser. &c.

Unde præcept. fuit eidem I. S. Balliv. Wapentag. de W. præd. quod de bonis & catallis eorundem A. B. & C. D. in Balliva sua fieri fac. dampna præd. & quod denar. habeat coram Vic. præd. ad proxim. Com. suum apud Castrum Eborum tenend. scilicet x die Marcii, anno præd. ad reddend. præfat. E. F. pro dampnis suis præd. Unde idem E. F. pet quod prædict. A. B. & C. D. assignent & narrent Cur. quid vel in quo falsum judicium sibi fact. est, si quid probari liquet, &c.

Et super hoc iidem A. B. & C. D. dicunt quod dict. Record. vitiolum & quamplurimum defectivum existit in hoc scilicet quod per idem Record. patet quod eadem averia capt. fuer.

Xv die Januarii, anno supradicto & quod Loquela inde levata fuit ad Com. Vic. xix die Decembris anno supradicto sic quod loquela illa levata fuit ante captionem aterior. præd. Ac etiam in hoc, quod per Record. illud patet quod Com. præd. tent. fuit coram vic. com. præd. cum eadem Curia tenuisse debet coram seſtator. ejusdem Curiae ita quod eadem loquela levata fuit coram non Judice & Process. inde adjudicat. sine ullo War-ranto in Lege Et sic iidem A. B. & C. D. dicunt quod in Com. præd. fals. judic. sibi fact. fuit in loquela pred. & petunt quod Judic. pred. pro erroribus illis & aliis in eodem Recordo & processi existent revocetur, adnihiletur & penitus pro nihilo habeatur.; & quod ipsi omnibus quæ occasione judicii pred. amiser. restituantur, &c.

Præcept. fuit Vic. quod si A. B. securum fecerit Vic. præd. de clamore suo prosequend. quod tunc assumpt. secum quatuor discret. & legalibus Militibus Com. præd. in propria persona sua accederet ad Curiam Honor. de P. & in plena Curia ibidem recordari fac. loquelam illam quæ fuit in eadem Curia Domini Regis inter C. D. & eundem A. B. in quodam placito trans-gressionis super Casum eidem C. D. per eundem A. B. illata ut dicitur : Unde. idem A. B. queritur falsum sibi factum fuisse judic. in eadem Curia & quod habeat ibi Record. ad hunc diem scilicet Octab. Hill. sub sigillo suo & per quatuor legales homines ejusdem Com. ex illis qui recordo illi interfuer. & quod summoneat per bonos summonigores eundem C. D. quod hic sit ad audiend. Record. illud.

A Record
upon an
Acces-
sion
to the
Curia
upon false
judgment.

Et quod habeat tunc hic nomina quatuor Militum, & istud breve, &c. & modo ad hunc diem hic scilicet Octab. Hill. ven-tam præfat. A. B. per S. D. Attorn. suum quam præd. C. D. per P. P. Attorn. suum.

Et Vic. scilicet G. M. Ar. nunc retornavit quod idem A. R. invenit eidem Vic. plegios de clamore suo prosequendo Jo. Doe & Rich. Roe & quod præfat. C. D sum. fuit, quod hic sit ad hunc diem per Jo. Den. & Rich. Fen; & quod ipse virtute ejusdem brevis sibi direct. secum assumpsit I. S. W. P. I. H. & W. W. quatuor discret. & legales Milites Com. præd. & in propria persona sua accessit ad Curiam præd. tent. apud P. in Com. præd. xv die Octobris, anno Regis nunc xiv & in plena Curia Recordari fec. Record. hic ad hunc diem habet sub sigillo suo & sigillis quatuor legalium hominum præd. qui Recordo illi interfuer. prout per idem breve sibi præcept. fuit ad respondend. C. D. in loquela præd. unde idem A. B. ad eandem Curiam in loco suo posuit S. D. Attorn. suum in loquela præd. Et præd. C. D. ad eandem Curiam per Attorn. suum præd. questus est versus eundem A. B. pro eo videlicet, quod cum idem C. D. ultimo die Decembris anno præd. apud W. præd.

&

& infra jurisdictionem Cur. pred. possessionat. fuit de una pec. panni lanei, Anglice *Wollen Cloth*, contin. undecim ulnas, precii xxxiv s. ut de bonis & catallis suis propriis.

Et sic inde possessionat. existen. idem C. D postea eandem preciam panni e manibus & possessionibus suis casualiter amisiit, quæ quidem pec. panni postea scilicet xii die Februarii tunc proxim. sequen. ad manus & possession. dicti defendantis per inventionem devenit, pred. tamen defendens dictam pec. panni propr. pec. panni esse querentis sciens & ei de jure spectare & pertinere & machinans & intend. eund. querent. de ead. pec. panni callide & subdole decipere & defraud. eandem pec. panni licet ad hoc faciend. tertio die Marcii anno suprad. apud. &c. requisit. fuit non deliberavit, sed eandem pec. panni postea, scilicet xviii die Marcii tunc proxim. sequen. apud W. pred. infra jurisdictionem hujus Cur. pred. ad usum suum proprium convertit & dispositus ad dampnum dict. querent. xxxix s. Et inde produc. festam, &c. Et dictus defend. ad eandem Curiam pet. licentiam interloquend. usq; proxim. Cur. & habet, &c. Idem dies dat. est dicto querenti tunc ibidem, &c. Ad quam proxim. Cur. tent. infra dictum Honor. de P: xxvi die Maii tunc prox. sequen. ven. tam dict. querens quam pred. defendens per Attorn. suos pred. & idem defend. pet. ulterior. licentiam interloquend. hic usq; prox. Cur. infra dictum Honor. tenend. & habet, &c. Idem dies datus est dicto querenti tunc ibidem, &c. Ad quam quidem proxim. Cur. tent. infra Honor. pred. xxvi die Maii tunc prox. sequent. ven. tam idem quer. quam idem defend. per Attorn. suos pred. & super hoc dictus defend. pet. ulterior. licent. interloquend. usq; proxim. Cur. Honor. pred. tenend. & habeat, &c. Idem dies datus est dicto querent. tunc ibidem.

Ad quam quidem Cur. tent. infra dict. Honor. die, &c. tunc proxim. sequent. ven. tam dictus quer. quam pred. defend. per Attorn. suos pred. & idem defend. adtunc defend. injur. quando, &c. Et dixit quod ipse in nullo fuit culpabil. de premissis superius super ipsum imposit. prout pred. querens per Narrationem suam pred. versus eum questus est Et de hoc pon. se super patriam & pred. quer. similiter. Unde nunc precept. fuit Balliv. Honoris pred. quod venire fac. ad Curiam Honor. pred. tenend. xii liberos & legales homines Honor. pred. ad triand. exit. pred. superius junct. Idem dies datus est partibus pred. tunc ibidem, &c.

Ad quam quidem prox. Cur. tent. infra honor. pred. die, &c. tunc prox. sequen. ven. tam dictus querens quam dict. defend. per Attorn. suos pred. & pred. Ball. retornavit panellum cum nomin. Jur. de quibus duodecim viz. A. B. &c: (naming)

stating the xii) exact. ven. & Jurat. fuer. & dixerunt super sacram. suum quod præd. C. D. possessionat. fuit de dicto pec. panni in narratione sua præd. superiorius specificat. Et quod eadem pec. panni per inventionem ven. ad manus dict. A. B. Et quod præd. querens eundem A. B. deliberare eidem querent. eandem pec. panni requisivit, & quod præd. Def. non deliberavit eandem dictio querent.

Et ulterius, iudicem Jur. dixer. quod dictus Def. in manibus suis adhuc detinet eandem pec. panni; & si super totam materiam in forma præd. compert. eundem Def. esse culpabilis de præmissis in narratione præd. specificat. vel non Jur. præd. omnino ignorant. & pet. advilamen. Cur. oe præmissis, & si super totam materiam in forma præd. compert. videtur Cur. quod dictus defend. culpabilis est de præmissis in narratione præd. specificat. tunc dicti Jur. dicunt super sacram. suum quod præd. Def. de præmissis in narratione pred. specificat. est culpabilis. Et tunc iudicem Jurat. assidunt dampna occasione premissorum ultra mis. & custag. per ipsum circa sextam suam in hac parte expens. ad viginti solid. & pro misis & custag. illis ad xii d. Et si super totam materiam in forma pred. compert. videtur Cur. hic quod dictus Def. non est culpabilis de præmissis in narratione pred. specificat. tunc Jurat. pred. super sacram. suum dicunt quod dictus Def. non est culpabilis de præmissis in narratione pred. specificat. Et quia eadem Curia le advilare vult de & super premis. antequam judic. inde reddat. dies datus est partibus pred. hic usq; prox. Cur. tenend. infra Honor. pred. ad audiend. inde judic. suum, &c. Ad quam quidem Cur. tent. infra Honor. pred. die, &c. tunc prox. sequent. ven. tam dictus quer. quam pred. Def. per Attorn. suos pred. Et quia Cur. de reddend. judic. inde non dum advilatur, dies datus est partibus pred. quousq; proxim. Cur. de audiend. inde judicium suum, &c. Ad quam quidem Curiam tent. in Honor. pred. die, &c. tunc prox. sequent. ven. tam dictus quer. quam pred. Def. per Attorn. suos pred. super quo premis. visis & per Curiam hic plene intellett. videtur Cur. hic quod idem Def. est culpabilis de præmissis in narratione pred. specificat. Ideo considerat est per eandem Curiam quod idem querens recuperet versus Def. pred. dictos xxi s. per Jurat. pred. in forma pred. assertat. ac etiam xxii s. pro misis & custaglis suis per Curiam hic ex assensu suo de incremento adjudicat. quæ quidem dampna sua in toto attingunt ad 43 s. Et idem A. B. in mis. &c.

Et unde idem C. D. pet. quod prefat. A. B. ostendat Cur. hic & assignet defecit. ubi fals. judic. sibi fac. est in dicta loquela in eadem Curia si quid factum sit. Unde idem A. B. dic. quod idem Record. vitium est. & multum defectivum; & quod fals. judic. sibi fact. est in dicta loquela, in hoc quod in Record.

Records, &c.

Recordo præd. nulla sit mentio cuius est Cur. Honor. de P. & in hoc, quod nulla mentio fiat quis est Dominus ejusdem Cur. neque qui sunt sectatores ejusdem: ac etiam in hoc, quod Jurator. non inveniunt quod præd. A. B. eadem pec. panni ad usum suum proprium convertit; & sic idem A. A. dic. quod multis modis in dicta Curia fals. judic. sibi fact. est in loquela predicta.

Et pet. quod dict. judic. pro erroribus diversis & aliis in recordo existent. tanquam fals. & vitios. revocetur, & pro nihil habeatur. Et quod ipse omnibus quæ occasione dicti falsi judicii amisit, restituatur: Et quod Justic. hic procedant ad examinand. præmis. Et quia Justic. hic, &c.

Placita in Curia Com. Ebor. tent. apud Castrum Eborum in Com. Ebor. undecimo die Januarii, Anno Regni Domini nostri Willielmi tertii Dei Gratia Angliae, Scotie, Francie & Hiberniae Regis Fidei Defensoris, &c. decimo coram A. B. C. D. E. F. & G. H. generosis sectatoribus Curia præd. tempore A. B. Ar. Vicecomitis Com. peæd.

AD hanc Curiam venit I. H. in propria persona sua ac impetravit quandam loquelam versus E. M. de placito transgr. super Casum, & idem I. H. adtunc & ibidem in eadem Curia invenit pleg. de prosequendo loquelam suam præd. scilicet Johaanem Doe & Richardum Roe: & superinde idem I. H. petit ab eadem Curia process. sibi inde fieri versus præd. E. M. in & super loquelam suam præd. super quo præfatus A. B. Vic. Com. præd. ut prefertur tunc existens secund. consuetudinem Curiae illius mandavit omnibus & singulis ballivis suis in & per totum Com. præd. coniunctim & divisim quod ponant seu unus eorum ponat per vados & salvos pleg. præd. E. M. ita quod sit ad prox. Curiam Com. Ebor. præd. tenend. apud Castrum Eborum in Com. præd. coram sectatoribus Cur. præd. octavo die Februarii tunc prox. sequend. ad respondend. eidem I. H. in placito prædicto, idem dies datus est per Curiam predictam eidem I. H. in placito præd. ad quem diem scilicet ad dictam prox. Cur. Com. Ebor. præd. tent. apud Castrum Ebor. præd. coram præd. Sectatoribus Cur. præd. eodem octavo die Februarii Anno decimo suprad. &c. venit præd. I. M. in propria persona sua; & obtulit se verius eundem E. M. in placito prædicto, & ipse idem E. M. solempniter exact. non venit. Ac. R. I. unus Ballivorum ejusdem Vic. Com. præd. ac unus ministror. Cur. præd. venit & retornavit præceptum præd. in forma præd. direct. & ulterius testatur quod præd. E. M. nihil habet in Com. Ebor. præd. per quod attachiari potest super quo adtunc

tunc & ibidem ad eandem Curiam Com. Ebor. præd. tent. apud Castrum Eborum præd. coram p̄f̄at. Seſtatoribus Cur. præd. eodem octavo die Februarii anno decimo supradicto ad petitionem præd. I. H. p̄f̄at. Vic. Com. præd. secundum consuetudinem Cur. præd. mandavit omnibus & singulis ballivis suis in & per totum Com. pred. quod attachiant seu unus eorum attachiat pred. E. M. per bona & catalla ſi in Com. suo præd. invent. forent. Ita quod fit ad prox. Cur. Com. Ebor. præd. tenend. apud Caſtr. Ebor. in Com. præd. coram Seſtatoribus Cur. præd. octavo die Martii, tunc prox. ſequend. ad respondend. præf. I. H. in placito præd. idem dies datus est eidem I. H. per Curiam præd. in placito pred. Et ſuperinde idem I. H. ponit loco ſuo I. C. Attorn. ſuum versus p̄f̄at. E. M. in placito pred. Ad quem diem ſcilicet ad diſt. prox. Cur. Com. Ebor. præd. tent. apud Caſtrum Eborum præd. in Com. præd. eodem octavo die M. anno regni diſti Domini noſtri Willielmi tertii nunc Regis Angliæ, &c. undecimo coram p̄f̄at. Seſtatoribus Cur. præd. ven. tam præd. I. H. per Attorn. ſuum præd. quam præd. E. M. in propria persona ſua. Et p̄f̄at. R. I. unus balliv. p̄f̄at. Vic. Com. præd. venit & retor- navit p̄ceptum præd. ult. mentionat. ei in forma prædict. direct. in omnibus ſervit. & execut. & ulterius teſtat. eft quod præd. E. M. attach. eft per unum diſcum plumbi tinei, an- glie a Pewter-Doubler, ad valentim duorum ſolidorum & ſex denariorum de bonis & catallis suis quod fit ad eandem prox. Cur. ad respondend. p̄f̄ato I. H. in placito præd. Et adtunc & ibidem præd. E. M. ponit loco ſuo Leonardum Bryar Attorn. ſuum in placito præd. Et adtunc per eundem Attorn. ſuum petit ab eadem Curia quod pred. I. H. narret versus iſum E. ſuper loquelaſ ſuam præd. & ſuperinde p̄f̄at. I. H. adtunc & ibidem in eadem Curia per Attorn. ſuum pred. nar- rando versus iſum E. M. ſuper loquelaſ ſuam præd. queritur quod cum præd. E. primo die Maii, Anno, &c. (ut in nar- atusque) & inde prodiſit ſeſtam, &c ſuper quo præd. E. M. per Attorn. ſuum præd. adtunc & ibidem in eadem Curia per- rit licentiam inde interloquendi hic uſque prox. Curiam Com. præd. tenend. apud Caſtrum Ebor. præd. coram Seſtatoribus ejusdem Cur. die Mercurii, videlicet, quinto die Aprilis tunc prox. ſequen. Et habet, &c. idem dies datus eft per Curiam præd. p̄f̄ato I. H. hic, &c. Ad quem diem ſcilicet ad diſt. prox. Curiam Com. præd. tent. apud Caſtrum Eborum præd. in Com. præd. eodem quinto die Aprilis, anno undecimo ſu- pradiſto coram præd. Seſtatoribus ejusdem Cur. ven. tam præd. I. H. per Attorn. ſuum præd. quam præd. E. M. per Attorn. ſuum præd. Et præd. E. M. per Attorn. ſuum præd. adtunc & ibidem ulterius petit licentiam interloquendi hic uſque prox. Cur. Com. præd. tenend. apud Caſtrum Eborum præd. in Com. præd. die Mercurii, videlicet tertio die Maii tunc prox. ſequend. & habet, &c. idem dies datus eft per Curiam

RECORDS, &c.

Curiam pred. prefato I. H. hic, &c. Ad quem diem scil. ad dict. prox. Car. Com. pred. tent. apud Castrum Eborum pred. in Com. pred. eodem tertio die Maii, anno undecimo supradicto coram prefat. Sectatoribus ejusdem Cur. ven. tam pred. I. H. per Attorn. suum pred. quam pred. E. M. per Attorn. suum pred. Et pred. E. per Attorn. suum pred. defendit injuriam quando, &c. Et dicit quod ipse non assumpit super se modo & forma prout pred. I. H. superius versus eum narravit, & de hoc ponit se super patriam, & pred. I. H. similiter. Ideo ad eandem Curiam Com. Ebor. pred. adiunc & ibidem tent. ad petitionem ipsius I. H. preceptum est per prefatum Vic. Com. Ebor. pred. omnibus & singulis ballivis suis in & per totum Com. pred. conjunctim & divisim quod ven. facerent, seu unus eorum fac. ad prox. Curiam Com. pred. hic scilicet apud Castrum Ebor. pred. in Com. pred. coram Sectatoribus Cur. pred. tricesimo primo die Maii tunc instantis duodecim prebos & legales homines de vicineto de Castro Ebor. in Com. pred. per quos rei veritas super exitum pred. inter partes pred. superius junct. melius sciri poterit, & qui nec pred. I. H. nec pred. E. M. aliqua affinitate attingunt ad faciend. quandam juratam patris inter partes pred. in placito pred. quia tam idem E. M. quam pred. I. H. inter quos contentio est posuerunt se inde in Jurat. ill. Et quod habeant seu unus eor. habeat tunc nomina Jurator. pred. & precept. pred. idem dies datus est per eandem Curiam partibus pred. in placito pred. Ad quem diem scilicet ad pred. prox. Cur. Com. pred. tent. apud Castrum Eborum pred. in Com. pred. coram pred. Sectatoribus ejusdem Cur. eodem tricesimo primo die Maii, anno undecimo supradicto ven. tam pred. I. H. per Attorn. suum pred. quam pred. E. M. per Attorn. suum pred. Et W. P. unus ballivorum prefati Vic. & unus Ministrorum Cur. pred. similiter venit & retornavit preceptum. pred. ei in forma pred. direct. in omnibus servit. & execut. una cum panello de nom. Jurator. pred. inferius nominat. inter partes pred. in placito pred. impanellat. & eidem precepto annex. videlicet A. B. C. D. &c. Et ulterius testat. est quod quilibet Jurator. pred. separatis per se summon. est per Jo-hannem Gell & Richardum Fell, legales Summonitores, & Jurat. illa inter partes pred. ponitur in respectu hic usque ad prox. Curiam Com. Ebor. pred. apud Castrum Eborum pred. coram Sectatoribus Curie pred. tenend. vicefimo octavo die Junii tunc prox. sequen. pro defectu Jur. quia nulli vener. licet solem ppter exact. fuerint, &c. super quo ad petitionem pred. I. H. precept. est per pred. Vic. Com. E. pred. omnibus & singulis ballivis suis in & per totum Com. pred. conjunctim & divisim quod venire fac. ad pred. prox. Cur. Com. pred. tenend. apud Castrum E. pred. in Com. pred. eodem vicefimo octavo die Junii, anno undecimo supradicto coram Sectatoribus Cur.

Cur. pred. Juratores pred. inter partes pred. in placito pred.
 Ad quem diem scilicet ad dictam prox. Cur. Com. Ebor.
 pred. tenend. apud Castrum Eborum pred. in Com. pred. co-
 ram pred. Seclatoribus Cur. pred. eodem vicefimo octavo die
 Junii anno undecimo supradicto ven. tam pred. I. H. per At-
 torn. suum pred. quam pred. E. M. per Attorn. suum pred. ac
 Jurator. pred. modo in eadem Curia Com. pred. adtunc apud
 Castrum E. pred. in Com. pred. coram Seclatoribus Cur.
 pred. tent. solemnitate exact. duodecim eorum videlicet A. B.
 C. D. &c. similiter venerunt qui ad veritatem de premissis
 super exitum pred. inter partes pred. ut prefertur junct. elect.
 triat. & jurat. existen. super sacramentum suum pred. dicunt
 quod pred. E. M. assumpsit super se modo & forma prout ipse
 idem I. H. superius versus eum queritur & assidunt dampnum
 ipsius I. H. occasione non performancei promission. & assump-
 tion. pred. eidem I. H. per prefat. E. M. apud Castrum Ebor.
 pred. fact. ultra misas & custagia sua circa lectam suam in hac
 parte apposit. ad quatuor solidos & novem denarios, & pro
 missis & custagiis illis ad duos denarios; Ideo consideratum est
 per Curiam pred. quod. pred. I. H. recuperet versus prefat.
 E. M. dampna sua pred. per Juratores pred. in forma pred.
 assess. necnon octoginta solid. & sex denar. eidem I. H. ad re-
 quisitionem suam pro missis & custagiis suis per Curiam pred.
 de incremento adjudicat. Quz quidem dampna mis. & custag.
 in toto se attingunt ad octoginta & novem solid. & octo de-
 nar. Et pred. E. M. in misericordia, &c.

.I R U O O

T S C

G I P VI S O M E

SOME SELECT
PRECEDENTS
 OF
DECLARATIONS
 AND
PLEADINGS
 Incident and belonging to this
COURT.

D E B T.

Narr. Executor. versus Exec. super Billam.

Ebor. II.

E. F. Executor. testamenti & ult. voluntatis I. F. de-
 funct. virtute brevis de Juficies Vic. Com. pred.
 direct. per I. S. Attorn. suum, queritur versus
 M. W. executor. ult. voluntatis & testamenti
 R. W. nuper de T. in Com. Ebor. Husbandman
 defunct. al. dict. R. W. de T. in Com. Ebor. Husbandman, de
 placito quod reddat ei 7 l. &c. quas ei injuste detinet, &c. pro
 eo quod cum pred. R. W. in vita sua, videlicet xx die, &c.
 anno, &c. apud Castrum Eborum in Com. Ebor. & infra ju-
 risdictionem hujus Curiae per billam suam obligatoriam sigillo
 suo

suo signat. & hic in Curia prolat. gerent. dat. die & anno pre-dicto, cognovisset se debere prefat. I. R. in vita sua integr. & justam summam 7 l. &c. solvend. eidem L. F. hared. execut. administr. vel assignat. suis, in vel super tertium diem Maii prox. sequent. dat. ejusdem bille; & pro solutione earundem idem prefat. R. W. tunc & ibidem per billam pred. obligasset se, Executores Administr. & Assign. suos, pred. tamen R. W. in vita sua, licet sapis requisit. pred. 7 l. eidem I. F. in vita sua seu pred. M. W. post mortem ipsius I. R. non solvit, &c. sed pred. R. W. in vita sua eisdem solvere eidem I. F. in vita sua contradixit; & pred. M. W. post mortem pred. R. W. eisdem prefat. E. F. post mortem dicti I. F. solvend. recusavit, & ad hoc faciend. adhuc contradicit & eisdem injuste detinet; ratione cuius pred. E. F. dic. quod damn. habet ad valenc. x l. & inde produc. festam, &c. Et profert hic in Curia literas testa-mental. pred. per quas satis liqueat Cur. hic pred. E. F. fore execut. ult. volunt. & testamentum pred. I. F. defunct. Et inde habere administrationem, &c.

Upon a Bill to be paid at the Day of Marriage and Issue upon it.

T. N. & E. uxor eius administrat. honorum & catalogorum *Ebor. fl.* quæ fuer. T. B. defunct. queruntur per S. D. Atterr. suum versus I. H. alias dict. I. H. de C. In dicto Com. Gen. de placito quod reddat eis s. l. quas eis injuste detinet, &c. quod cum pred. I. H. (tali die & anno & loco) per quandam billam suam obligator. sigillo suo signat. & hic in Curia prolat. cuius dat. est eisdem die & anno pro & in consideratione unius anni nuli aurei, cum quodam lapide vocato a Diamond in eodem annulo impresio quem de pred. T. B. in vita sua recepit die confectionis ejusdem billæ, cognovisset & concessisset ad & cum pred. T. B. in vita sua, quod ipse idem I. H. exec. vel assign. sui solverent vel solvi causarent prefat. T. B. exec. vel assign. suis pro eodem annulo, tali die & tempore qual. ipse idem I. H. uxorem duceret, vel nuptus foret, vel ad aliquod aliud temp. post despousalia sua quandomcumque requisit. fuisse per pred. T. B. exec. vel assign. suos, sive per ipsum qui billam pred. afferret dictam sum. s. l. ad ejus vel eorum usus pred. tempore solvend. Et pred. T. N. & E. in facto dic. quod pred. I. H. post confectionem billæ illius, scilicet, (tali die, anno & loco) infra Eccles. Parochial. de H. in Com. pred. & Jur. pred. uxorem duxit quandam I. D. per quod aetio ac crevit eidem T. B. in vita sua, ac eidem B. post mortem ipsius T. B. dum sola fuit, & pred. T. N. & E. post despousalia inter eos celebrat. ad exigend. & habend. de pred. I. H. eisdem s. l. pred. tamen I. H. licet sepius requisit. pred. s. l. eidem

T. B. in vita sua, vel prefat. B. dum sola fuit cui administrat omnium bonorum & catalogorum quae fuer. pred. T. B. tempore mortis sua (tali die, anno & loco) per talen Episc. commis. fuit, nec pred. T. N. & E. post despousal. inter eos celebrat non reddidit, sed illas eisdem reddere contradixit; & illas prefat. T. N. & B. reddere adhuc contradicit & iuste detinet: unde dic. quod deteriorat. sunt & damn. habent ad valent. xii. Et inde producunt sedam, &c. Et proferunt hic in Cur. literas administrator. &c. Atq. V. M. hacten usq. ad
m. civi. q. I m. 6. 67. v. 10. usib[us] sicut dicitur. V. M. 9. hacten
m. 67. V. M. hacten usq. V. M. hacten 33. sicut dicitur
de 33. invicem. hacten usq. 33. sicut dicitur. Atq. V. M. hacten
33. sicut dicitur. hacten usq. 33. sicut dicitur. Atq. V. M. hacten
Bar infra etatem.
Et pred. I. B. in propria persona sua ven. & defend. vim &
injur. quando, &c. Et dicit quod pred. T. N. & E. actionem
suam pred. versus eum habere non debent, quia dic. quod ipse
tempore confectionis bilie pred. fuit infra etatem vigint. &
unius annorum, & hoc parat est verificare: unde per. judic.
si prefat. T. N. & E. actionem suam pred. versus eum habere
debent, &c.

Bar infra etatem.

Replicat:

Et pred. T. M. & E. dicunt quod ipsi per aliqua preallegat. ab actione sua pred. habend. precludi non debent, quia dicunt quod pred. I. H. tempore confectionis bilie pred. fuit plene etatis viginti & unius annorum, ac non infra etatem, prout pred. I. H. superius allegavit: & hoc pet. quod inquiratur per patriam, & pred. I. H. similiter; Ideo pracept. est, &c.

Debt sur Retainer.

Ebor. 15

A B. per S. D. Attorn. suum queritur versus C. D. de pl-
no apud S. &c. pro eo quod cum pred. C. D. (tali die & an-
no) apud S. &c. retinuisse et eundem A. B. ad imponend. super
pedes equorum pred. C. D. quadragint. novas soleas ferreas,
Anglice *Horse-shoes*, & ad removend. quadragint. soleas ferreas,
& ad emendand. un. par. instrumentorum ferrorum ad ara-
trum pertin. & ad faciend. un. focariam, anglice *a Fire-shovel*,
ac ad recipiend. de pred. C. D. pro impositione quadragint.
novar. solear. ferrear. pred. & quadragint. remotionibus xxi s.
Et sic pro alter. parcell. solvend. eidem A. B. cum inde requisit.
fuisse; virtute cuius retentionis prefat. A. B. pred. quadra-
gint. novas soleas ferreas & quadragint. remotiones super pedes
equorum ipsius C. D. imposuit, &c. per quod actio accrebit,
&c. *Hill.* 37. *Eliz. Rot.* 317.

Dr. B.

Debt for Money borrowed. A business transaction which involves the creation of a debt.

F. B. per. &c. queritur versus T. A. de placito quod reddat ei xii l. quas ei debet, & injuste detinet, &c. pro eo videlicet quod cum 3 die Maii, anno regni Dom. Regis nunc Caroli secundi, &c. xiv apud, &c. prefat. F. B. &c dicitur T. A. insimul computassent de & pro diversis denar. summis tunc & ante tempus illud debit. & insolut. per eundem T. A. eidem F. B. & super eundem computat. idem T. A. adtunc & ibidem cognovit se in arrerag. esse & indebita eisdem F. B. sum. xii l. solvend. prefat. F. B. cum idem T. A. inde requisit. fuisse pred. tamen, &c. H. bengal. boozai & bengalese ba-
*Money lent by Joint-partners for a certain Time, and
to be paid to the Survivor.*

R. K. &c. queritur versus W. A. de placito quod reddat ei s. xx. quos ei debet & injuste detinet, &c. pro eo videlicet quod cum ult. die Februarii anno Regni Domini Regis nunc Angliae xiv apud castrum, &c. prefat. R. K. & quidam R. W. nunc defuncti. consortes de denar. & aliis communitatibus existent, mutuo dederunt eidem W. A. 3 l. legalis, &c. solvend. eis vel superstite. eorum die Lunae Paschal. tunc proxim. sequent. de quibus 3 l. prefat. W. A. prefat. R. K. & R. W. in vita sua solvit summam 40 s. & tunc ibi reman. in. solut. summa viginti solidorum 3 & postea & circa Nativitat. Christi, anno dicti Domini Regis nunc xiv apud, &c. dictus R. W. obiit, & pred. R. K. eum supervixit, per quod actio accrebit eidem R. K. ad habend. & exigend. de pred. W. A. pred. xx s. pred tamen W. A. licet saepius ad hoc requisit. pred. xx s. prefat. R. K. nondum reddidit, sed ill. ei hucusque reddere reculavit, & adhuc recusat: unde idem R. K. dic. quod deteriorat. est & dampnum habet ad valenc. xxxix s. xi d. & inde produc. sextam, &c.

For Rent in Arrear.

R M. per, &c. queritur versus H. D. de placito quod reddat *Ebor. fl.*
ei xxx s. quos ei debet & injuste detinet, &c. pro eo
quod idem R. M. x die Aprilis, &c. apud Castrum, &c. de-
misit, concessit, & ad firmam tradidit eidem H. D. un. cot-
tag. un. hort. & quatuor acr. terr. arabil. cum pertin. jacent.
& existent. apud *W.* in *Com.* pred. ac infra *Jur.* pred. habend.
& tenend. dicta cottag. hort. & terr. arabil. cum pertin. eidem
H. D. & assign. suis, ab Annunciat. beatae Marie Virginis vul-

Debt.

gariter vocata *Lady-Day*, tunc ult. preterit. pro & durant. termino trium annorum extunc proxim. sequent. plenar. comprehend. finiend. & terminand. reddend. inde annual. redd. pro pred. premis. eidem R. M. pro anno primo trium annorum predictorum redd. trium libraram in denar. numerat. in manibus solvend. eidem R. M. & 3*s.* 10*s.* &c. annuatim solvend. eidem R. M. pro aliis duobus annis resid. dicti termini ad festa Sancti Michaelis Archang. & Annuntiat. beate Mariæ virginis per equales portiones: Virtute cujus dimissionis. idem H. D. in dicta cottag. & cetera praemissa intravit. & fuit. & adhuc existit inde possessionat. Et quia 35*s.* pro dimissi ann. fuit. ad festum Sancti Michaelis Archang. anno. &c. sunt in arrerag. & insol. prefat. R. M. ideo actio accrexit eidem R. M. ad exigend. & habend. de pred. H. D. dictos 35*s.* si pred. tamen H. D. licet sepius requisit. pred. 35*s.* eidem R. M. hucusque reddere & solvere contradixit. & adhuc reddere & solvere contradicit. ad dampnum ipsius R. M. 39*s.* & inde produc. sedam. &c.

For Servants Wages.

A W. pen. &c. queritur versus I. S. de placito quod reddat ei 24*s.* &c. quos ei debet & injuste definet. pro eo quod cum pred. I. S. die. anno. &c. apud Castrum. &c. retinuerit eundem A. W. ad deservient. dict. I. S. in loco servientis abinde usq; ad festum Sancti Martini Epi. in Hyeme tunc prox. sequent. ad agend. & exequend. legales occasiones. & mandata prefat. I. S. per tempus. pred. solvend. inde eidem A. W. 12*s.* &c. quod pred. I. S. adtunc & ibidem solvit prefat. A. W. ac etiam 24*s.* ultra. &c. pro Salar. suo durant. termino pred. ad dictum Festum Sancti Martini anno. &c. pred. Et pred. A. W. in facto dic. quod ipse juxta refectionem pred. deserviebat dicto I. S. in loco servientis. & fecit. & pergit legalia mandat. & occasiones prefat. I. S. per tempus pred. apud. &c. Et quod 24*s.* pro salar. suo pro servic. suo per tempus pred. debit. ad Festum Sancti Martini Epi. in hyeme anno. &c. superius mentionat. adhuc est in arrerag. & insol. per pred. I. S. eidem A. W. per quod actio accrexit eidem A. W. ad habend. & exigend. de prefat. I. S. dict. 24*s.* pred. tamen I. S. licet sepius requisit. &c.

For not setting forth of Tithes.

Ebor. ff.

R H. firmar. omnium & singularum decimar. feni crescend. infra Paroch. de P. in Com. Eborum. virtute brevis de Justicies Vic. Com. pred direct. per R. N. Ateorn. suum queritur versus T. W. de placito quod reddat ei 6*l.* &c. quas ei debet

debet & injuste detinet, pro eo quod cum prefat. T. W. die, anno, &c. possessor fuit & occupator de quatuor acr. prati in Paroch. predicta ; & sic inde possessionat. existent. idem T.W. adtunc & ibidem herbam crescent. in & super pred. quatuor acras prati defalcavit, & duo plaustra onerat. ibidem, attin- gent. ad valorem x l. adtunc & ibidem cepit & asportavit, ante aliquam extrapoition. & separation. decimarum pred. sive decimæ partis ejusdem a noveti inde partibus, vel composition. pro pred. decimis sive decima parte inde, per quod pred. T.W. fecit contra formam Statuti anno 5 Ed. 6. in simil. casu edit. & provis. Unde actio accrebit eidem R. H. ad habend. & exigen. de prefat. T. W. easdem 6 l. videlicet, pro triplici valore ejusdem seni sic asportat. pred. tamen T. W. licet sepius re- quisit. &c.

Upon an Award.

R. K. virtute, &c. per E. B. Attorn. suum queritur versus H. S. de placito quod reddat ei x l. quas ei debet & injuste detinet, &c. pro eo quod cum 25 die A. anno, &c. apud Castrum, &c. conclus. fuit & agreas. inter prefat. H. S. ex una parte, & pred. R. K. ex altera parte, quod ipsi & eorum interq; requiescent & astarent Ordin. arbitrium & judicium I. D. & M. L. de omnibus & singulis sect. perturbat. litib. débit. transgression. &c. quibuscumq; que ante inter eos fuer. in aliquo genere negotiat. a principio mundi ad diem dat. dicti scripti, existent. dicto 25 die A. vel aliter una altera pars eodem arbitrio non acquies. alteri parti forisfaceret summ. x l. &c. Et pro confirmatione ejusdem eorum uterq; man. & sigilla eorum imposuer. die & anno supra script. apud Castrum pred. &c. prout per idem script. (ad ostendend. hunc Curia parat.) liquet. Et cum postea, scilicet die, anno, &c. apud Castrum, &c. pred. I. D. & M. L. super se assumpser. onus præmissorum per ordinem eorum script. gerent. dat. eisdem die & anno ult. superius mentionat. & hic in Cur. ostensum arbitraverunt ordi- navérunt & adjudicáver. quod prefat. R. K. tunc deliberaret eidem H. S. un. parcel. turbasis, anglice *Starch* in man. dicti R. K. & bagum qua turbasis posit. est, affirmat. esse bonorum dict. H. S. super visum dict. ordinis. Et ulterius per ipsum ordinem ordinaver. & adjudicaver. quod pred. H. S. solvat vel solvi faciet eidem R. K. super visum hujus ordinis summi. &c. Et quod omnia illa sexte debit. transgr. sive lites quæcunque a principio mundi usque ad pred 25 diem, &c. desistent & ter- minentur aut aliter pars eadem ordine non acquiescent. foris- facer. &c. sicut in dicto ordine exprimitur sum. x l. prout per dictum arbitrium sigillat. dictis die & anno, &c. per dictos arbitratores, & hic in Curia ad ostendend. parat. satis liquet: Et idem R. K. in facto dic. quod licet ipsi peregit omnia in

Per quod-
dam script.
factum.

dicto arbitrio ex parte ejus peragend. pred. tamen H. S. non performavit aliquid in dicto arbitrio ex parte sua performand. Et idem quer. in facto dicit quod dictus H. S. non solvit prefat. R. K. saper visum ordinis existent. die & anno, &c. apud Castrum, &c. summam de 50 s. &c. per quod actio accredit eidem R. K. ad exigend. & habend de pred. H. S. dict. x l. pred. tamen H. S. licet saepius ad hoc requisit. pred. x l. eidem R. K. nondum solvit, sed easdem solvere, &c.

Pro Feodis Attorn.

Ebor. ff.

RA. Gen. &c. per T. S. Attorn. suum queritur de W. P. de placito quod reddat ei 37 s. 2 d. quos ei debet & iuste detinet, pro eo quod cum pred. W. P. die anno, &c. apud Castrum Eborum, &c. retinuisse eundem R. A. essend. Attorn. ipsius W. P. in Curia Com. T. S. Vic. &c. tent. apud Castrum Ebor. in Com. Ebor. coram sectator. ejusdem Curiae ad prosequend. tanquam Attorn. ipsius W. P. pro eundem W. P. in quadam actione in nomine ipsius W. P. versu quendam C. C. de placito debit. a dictis die & anno, &c. tamdu amba bus partibus placeret, capiend. inde pro feod. & labore suo in ea parte suffit, qualibet Cur. qua idem R. A. attornatus prefat. W. P. in letia illa sic existit, ii s. legalis, &c. Ac ultra feod. & rationabil. misas & expens. per eundem R. A. in & circa prosecutionem actionis pred. solv. & deponend. virtute cuius retentionis, idem R. A. Attorn. ipsius W. P. pred. fuit pro octo curiis tunc prox. sequent. & quod depositisset Clerico & al. Ministr. ejusdem Curiae in & circa prosecutionem ejusdem sectar. xx s. ii d. &c. qui quidem xx s. ii d. una cum xvii s. pro feod. suis pro pred. octo Curis in toto attingunt ad 37 s. 2 d. &c. ratione cuius actio accredit eidem R. A. ad exigend. & habend. de prefat. W. P. pred. 37 s. 2 d. pred. tamen W. P. licet saepius requisit. pred. &c. eidem R. A. non reddidit, sed ill. ei hucusq; reddere omnino recusavit, & adhuc recusat, ad grave damn. ipsius R. A. unde dic. quod deteriorat. est & damn. habet ad valenc. 35 s. Et inde produc. sectam, &c.

Upon a Lease for Tithes.

Ebor. ff.

WT. per B. Attorn. suum queritur de R. R. de placito quod reddat ei xx s. &c. quos ei debet & iuste detinet pro eo quod cum pred. W. T. ii die Novembris, anno, &c. apud, &c. tunc firmar. Rectoriae de S. existent. pro uno anno integro tunc proxim. sequent. dimisisset eidem R. R. omnes decimas granorum existent. de & super sex acras & tres rudas terr. arabilis parcell. terr. de P. in W. pred. ac parcell. d. sit Rectoriz. pro viginti solid. &c. solvend. eidem W. T. modo

modo & forma sequent. viz. 12 s. super festum Sancti Marci Evangelistæ tunc prox. sequent. & alt. oœ. solid. super festum Sancti Martini Epi. in Hyeme tunc proxim. sequent. pred tamen R. R. licet sepius ad hoc faciend. requisit. pred 20 s. eidem W. T. nondum reddidit, sed ill. ei reddere contradixit, & adhuc contradic. Unde idem W. T. dic. quod deteriorat. est & damn. habet ad valenc. 30 s. Et inde producit sectam, &c.

Upon a Bond for a surviving Obligeo.

I P. virtute brevis de Justic. &c. queritur versus M. M. de S. Yeoman, al. dict. M. M. de S. Yeoman, de placito quod reddat ei 40 l. &c. quas ei debet & injuste detiner, &c. pro eo quod cum dictus M. M. 2 die Maii, anno, &c. apud, &c. per quoddam scriptum suum obligator. sigillo suo signat. & hic in Cur. prolatum, cuius dat. est die & anno supradictis, concessisset se debere & firmit. obligari prefat. I. P. & E. G. nuper de Civitate Ebor. defunct. in sum. 40 l. solvend. eisdem I. P. & E. G. vel eorum alteri cum inde requisit. fuisset: qui quidem E. G. postea, & ante impetrationem hujus querela apud, &c. obiit, & pred. I. P. ipsum supervixit, per quod actio accredit eidem I. P. ad habend. & exigend. de pred. M. M. pred. 40 l. pred. tamén M. M. licet sepius requisit. pred. 40 l. eidem E. G. non reddidit, sed ill. ei reddere, &c.

Upon the same.

I H. virtute, &c. queritur versus W. H. de L. al. dict. &c. de placito quod reddat ei 20 l. quas ei debet & injuste detiner, &c. pro eo quod cum pred. W. H. (tali die & anno) apud, &c. per scriptum suum obligatorium cognovisset se teneri eidem I. H. & cvidam M. H. nunc defunct. quem dictus I. H. supervixit, in pred. 20 l. solvend. prefat. I. H. & M. H. vel eorum alteri cum inde requisit. fuisset; pred. tamén W. H. licet sepius requisit. pred. 20 l. eisdem I. H. & M. H. vel eorum alteri in vita dicti M. H. aut prefat. I. H. post martem dicti M. H. qui, &c. non reddidit, sed ill. ei reddere contradixit, & ill. prefat. I. H. adhuc reddere contradic. Unde dic. quod deterior. est & damn. habet ad valenc. 20 l. Et inde produc. sectam, &c. Et profert hic in Cur. scriptum pred. quod debitum pred. in forma predicta testatur, cuius dati est die & anno supradictis,

*Upon a Bond for an Executor against Sibets us Cobeyrs
one of them being married,*

TP. Executor. testamente. W. P. virtute brevis, &c. que-
ritur de R. M. nuper de L. mil. & A. uxore ejus, &
L. B. nuper de L. Spinster, filia & coheredis C. B. nuper dict. C. B. &c. de placito quod reddant ei 80 l. quas ei injuste de-
tinent, &c. pro eo quod cum pred. C. B. pater dictarum A.
& L. cuius coheredes ipse sunt in vita sua, x die Junii, anno,
&c. apud, &c. per scriptum suum obligator. cognovisset se te-
neri prefat. W. P. in vita sola in 80 l. solvend. eidem W. P.
cum inde requisit. fuisse. Et ad eandem solutionem bene &
fidel. faciend. pred. C. B. obligasset se & haeredes suos per idem
scriptum & pred. tamen C. B. in vita sua & pred. A. & L. filia
& coheredes prefat. C. B. post mortem ipsius C. B. dum sole
fuer. & pred. R. & A. & L. post desponsat. hinc eodem R. &
A. telebo. licet saepius requisit. pred. 80 l. eidem W. P. in
vita sua, vel prefat. T. P. post mortem ipsius W. P. non red-
diderunt, sed ill. eis reddere contradixerunt & pred. R. &
A. ill. eidem T. P. adhuc reddere contradicunt & injuste
detinent; unde dic. quod detinent. est & damn. habet ad va-
lent. l. & inde prodit. Recam. &c. Et prefert. &c. tam
scriptum predi. &c. quam literas testamentarias. &c.

*Upon a Bond against an Administrator for an Admini-
strator during the Minority of the Executor of an
Executor.*

Ebor. II.

WA. nuper de H. Execut. testamente E. A. de T. vir-
tute brevis, & queritur versus M. G. &c. Administr. bonor. &
catalorum quae fuer. R. C. qui obiit intestat. &c. nuper dict. R. C. de T. id Com. Eborum Gen. de placito quod reddat
eis quod quis ei injuste detinet. &c. pro eo quod cum pred.
R. C. in vita sua quarto die Januarii, anno. &c. apud, &c.
per quoddam scriptam sub nomine obligatorium conciliasset se teneri
pred. E. A. de T. in vita sua in pred. 40 l. solvend. eidem E.
A. cum inde requisit. fuisse; pred. tamen R. C. in vita sua,
& pred. M. G. post mortem ipsius R. C. cui administratio om-
nium bonorum & catalorum quae fuerunt dicti R. C. tempore
mortis suae, tali die, &c. apud Castrum Eborum pred. post
mortem dicti R. C. commissa fuit, licet saepius requisit. pred.
40 l. prefat. E. A. de T. in vita sua, aut pred. E. A. de H. in
vita sua post mortem dict. E. A. de T. vel dict. E. post mortem
dict. E. A. de H. dum sola fuit cui administratio omnium bo-
norum

norum & catallorum quæ fuerunt pred. E. A. de H. tempore mortis sua durant. minori etate dict. E. A. Jun. Execut. testamenti dicti E. A. de H. qui quidem E. A. adhuc est infra etatem, scilicet, quatuordecim annorum, & non ultra, per A. provident. divina tunc Ebor. Archiep. x die Maii, anno, &c. apud Castrum Eborum, &c. post mortem dicti E. A. de H. commissa fuit, vel pred. W. T. & E. post despousal. inter eos celebrat. non reddider. sed ill. eis reddere contradixer. Et predicta M. G. ill. prefat. W. T. & E. adhuc reddere contradicit. & injuste detinet; Unde dic. quod deteriorat. sunt & damnabunt ad valenc. xxx l. Et inde produc. seftam, &c.

Et proferunt hic in Curia tam scriptum pred. quod debit. pred. in forma pred. testatur, cuius dat. pred. xiv die Januarii, &c. pred. quam literas testamentar. dict. E. A. de T. per quas satis liquet Cur. hic dict. E. A. de H. Executor, fore testamenti prefat. E. A. de T. & inde habuisse Administrat. &c. Ac etiam literas testamentar. dicti E. A. de H. per quas satis liquet Cur. hic prefat. E. A. Jan. exec. fore testamenti ejusdem E. A. de H. Ac etiam literas administrator. &c. que commissio administration. pred. pred. E. in forma pred. testantur, &c.

For not delivering of a Pawn upon Tender of the Money borrowed.

AS. virtute brevis, &c. querit. vers. E. P. de placito quare Ebor. II. pred. A. primo die Maii, &c. apud, &c. mutuo accepit de pred. E. P. xii l. &c. & adtunc & ibidem pignoravit, & in nomine pignoris dedit & deliberavit prefat. E. P. diversa bona & catalla pred. A. S. ad valenc. 172 l. legalis, &c. pro securitate solutionis eidem E. P. pred. xii l. una cum interesse pro deferend. & dando diem solutionis dictar. 12 l. juxta rat. 6 l. per cent. quousq; pred. A. S. pred. xii l. pred. E. P. resolvat: Et prefat. E. P. adtunc & ibidem, videlicet, primo die Maii, anno, &c. pred. apud, &c. in consideration. premissor. super se assumpsit, & eidem A. S. adtunc & ibidem fidelit. promisit quod ipse prefat. E. P. bona & catalla pred. sibi per prefat. A. S. antequam pignocat. & deliberat. eidem E. P. super solutionem pred. 12 l. una cum interesse pro pred. 12 l. juxta rat. pred. sibi faciend. bene & fideliter redeliberaret: Ac licet pred. A. S. postea, scilicet, 16 die S. anno, &c. & saepius postea apud, &c. pred. 12 l. una cum interesse pro eisdem 12 l. juxta rat. 6 l. per cent. per totum tempus pred. E. P. plenar. ad solvend. & satisfaciend. obtulit, pred. tamen E. P. promissionem & assumptionem suas pred. minime curans, sed machinans & fraudulent. intendens eundem A. S. In hac parte callide & subdole decipere & defraudare pred. 12 l. una cum fœnore

pro eisdem 12*l.* juxta rat. pred. de prefat. A. S. recipere, & bona & catalla pred. eidem A. S. deliberare omnino recusat, ad grave damn. ipsius A. S. &c.

Against a Carrier for Loss of Goods delivered to him.

Ebor. st.

G. B. Ar. virtute, &c. queritur de P. M. de placito trans-
f. gr. super casum, pro eo quod cum prefat. P. M. (tali
die & anno) & diu antea, & semper postea hucusq; fuit, &
adhuc existit communis Gestator anglice *a common Carrier*, a
Civitate Eborum in Com. ejusdem Civitatis ad Villam de S. in
dicto Com. & a pred. Villa de S. ad eandem Civitatem Eborum.
Et idem P. M. eodem die & anno, & diu antea, & continue
postea hucusq; usitat. & assuet. fuit per se & servientes suos su-
per equos ipsius P. M. bona & catalla pro rationabili & legali
stipend. & salar. aliquibus personis in ea parte inde solvend.
carriare ultro citroq; inter pred. Villam de S. & Civit. Ebor.
juxta usual. agreement. & solution. in ea parte faciend. & ha-
bend. Cumq; etiam secundum leges & consuetudinem hujus
regni Angliae, omnes Gestatores qui bona & catalla de ali-
quibus personis recipiunt sic gestand. pro rationabil. & legal.
stipend. sive salar. inde dand. & solvend. obligat. sunt ad con-
servand. & gestand. eadem bona & catalla consumilium perso-
narum sic recept. sine eorum spoliatione, detentio, vel per-
ditione; ita quod pro vel per defect. consimilis commun. Ge-
statori nullum damn. ullo modo contingit talibus personis
per gestationem inde cumq; pred. P. M. pred. (tali die & an-
no) apud S. pred. in Com. pred. ac infra Jur. pred. super se
suscepisset carriare un. Riscum, anglice *a Trunk*, firmat. serat.
cum diversis denarior. sum. de bonis & catallis pred. G. B.
ad valenc. x*l.* in eodem Risco tunc existent. tute & sedulo a
pred. Civit. Ebor. ad dictam Villam de S. & pro cert. & usual.
stipend. salar. & rat. pro gestatione ejusdem Risci denar. bo-
norum & catallorum pred. per prefat. G. prefat. P. M. postea
solvend. Et pred. P. M. postea, scilicet, (tali die & anno pred.)
apud Civit. Ebor. pred. de ipso prefat. G. B. Riscum pred.
recepit, cum denar. bonis & catallis pred. in eodem Risco ut
pred. est serat. in forma pred. gestand. pred. P. W. Riscum
pred. cum denar. bonis & catallis pred. de prefat. G. B. postea,
scilicet, tali die & anno, tam negligenter & improvide con-
servabat & carriavit, quod diversa denar. sum. bona & catalla
ipsius G. B. in eodem Risco ut pred. serat. scilicet, 5*l.* in de-
nar. numerat, un. par. &c. ad valenc. &c. per remissam custo-
diam ipsius P. M. adtunc & ibidem amissa fuer. Et quod ipse
prefat. G. B. eadem denar. bona & catalla ult. mentionat. a
tempore illo usque diem, &c. scilicet, tali die & anno, non
recepit nec habuit, licet pred. P. M. per eundem G. B. postea,
scilicet,

scilicet, tali die & anno, s^epius requisit. fuisse denar. bona & catalla pred. eidem G. B. deliberate. Unde idem G. B. dic. quod dampnum habet, &c.

For Coals, promising to pay so much as they should reasonably be worth.

I. &c. queritur de R. R. de placito transgr. super Casum, I. &c. pro quod eo cum dictus R.R. die, anno, &c. apud Castr. &c. in consideratione quod pred. I. I. ad requisition. dict. R. R. barganizasset & vendidisset eidem R. R. undecim carectatas carbonum, super se assumpsit, & prefat. I. I. adtunc & ibidem fidelit. promisit quod ipse idem R. R. tantas denariorum summas quantas predictae undecim carectatae carbonum rationab. valebant eidem I. I. cum inde requisit. fuisse bene & fideliter solvere & contentare vellet. Et prefat. I. I. in facto dic. quod predictae undecim carectatae carbonum rationabilit. valebant trigint. & tres solidos, &c. pred. tamen R. R. promissionem & assumptionem suas predictas minime curans, sed subdole & callide intendens eundem I. I. in premiss. defraudare & decipere licet s^epius requisit. pred. trigint. & tres solidos eidem I. I. non solvit, sed ill. ei hucusq; solvere omnino recusavit, & adhuc recusat, contra promissionem & assumptionem suas predictas, ad grave dampnum ipsius I. I. Unde dic. quod deterior est & damn. habet ad valenc. 39 s. & inde produc. sectam, &c.

For a Horse sold, and warranted to be sound.

W M. per R. B. Attorn. suum queritur de R. K. de placito transgr. super casum eo quod cum predictus W. M. die & anno, &c. apud Castrum Eborum, &c. Emisset de predicto R. K. unum atrum Spadonem, anglice one black Gelding. pro § l. legalis, &c. ipse idem R. K. adtunc & ibidem warrantizavit eundem Spadonem esse incolumem & sanum, ac nullo morbo vel infirmitate teneri: & predictus W. M. in facto dic. quod predictus Spado tunc adeo infectus fuit cum quodam morbo pestifero, vocato the Glaunders, & diversis aliis morbis & infirmitatibus, quodq; predictus Spado parvum valebat, ad dampnum ipsius W. M. 39 s. Et inde produc. sectam, &c.

Ebor. ff.

For a Horse lent, promising to deliver him.

I R. queritur de I. A. de placito transgr. super casum, &c. Ebor. ff. I. quare cum dictus I. A. die & anno, &c. apud Castrum, &c. In consideratione quod predictus I. R. adtunc & ibidem ad instantiam

stantiam & requisitionem ejusdem I. A. mutuo dedisset & de liberasset eidem I. A. unum badium Equulum, anglice *one bay Nag*, prec. 6 l. redeliberand. eidem I. R. cum inde postea requirit. fuisse prefat. I. A. super se assumpit, & eidem I. R. adtunc & ibidem fidelit. promisit quod ipse idem I. A. eundem Equulum eidem I. R. cum inde postea requisit. fuisse fidelit. redderet & deliberaret, ac etiam 12 d. pro quolibet die quo prefat. I. A. laboraret & equitarot eundem Equulum eidem I. R. cum inde postea requisit. fuisse bene & fideliter solvere & contentare vellet. Et prefat. I. R. in facto dic. quod idem I. A. per quadragint. dies eundem Equulum laboravit & equitavit, videlicet, apud, &c. predictus tamen I. A. promissionem & assumptionem suas predictas minime curans, sed callide & subdole intendens eundem I. R. in premissis decipere & defraudare, scilicet, die, anno, &c. pred. ac etiam diversis diebus & temporibus postea, & ante inceptionem hujus sectar, apud Castrum, &c. ad deliberand. eundem Equulum eidem I. R. sibi requirit. fuit, sed predictum Equulum reddere sive deliberate omnia recusavit, & adhuc recusat, necnon 40 s. pro labore & mercede ejusdem Equuli pro 40 diebus predictis eidem I. R. non solvit, sed ill. ei solvere similiter recusavit, & adhuc recusat, ad grave dampnum ipsius I. R. &c.

For agisting of Beasts.

T B. queritur de I. S. Executor. testamenti I. D. de plac. cite transge. super casum, quod cum die, anno, &c. apud Castrum, &c. in consideratione quod predictus T. B. ad special. instanc. & requisition. I. D. in vita sua depasceret duos boves ejusdem I. D. in terra dicti F. B. in A. in Com. predicto ac infra Jur. pred. a die, anno, &c. ad finem unius mensis prox. sequent. ipse idem I. D. in vita sua super se assumpit, & eidem T. B. adtunc & ibidem fideliter promisit quod ipse prefat. I. D. tantum quantum dicta depast. pro averiis predictis rationabiliter valeret eidem T. B. cum idem I. D. inde requisit. fuisse, bene & fideliter solvere & contentare vellet. Et prefat. T. B. in facto dic. quod ipse a predicto die, &c. ad finem unius mensis tunc prox. sequent. depavit dictos duos boves ipsius I. D. in terra ejusdem T. B. in A. pred. ac infra Jur. pred. Et quod eadem depast. rationabiliter valebat 12 s. &c. pred. tamen I. D. in vita sua, & pred. I. S. post mortem ipsius I. D. promission. & assumption. ejusdem I. D. minime curans, sed machinans & fraudulenter intendens eundem T. B. in hac parte callide & subdole decipere, & defraudare, predictos xii s. vel aliquem inde denar. eidem T. B. nondum solvit, nec pro ejusdem aliqualit. contentavit, sed ill. solvere pred. I. D. in vita sua, sicut requisit. recusavit & prefat. I. S. post mortem ipsius I. D.

I. D. recusavit, & adhuc recusat: Unde idem T. B. dic. quod deteriorat est & damin. habet ad valenc. 30 s. Et inde produc. sectam, &c. Vide Cowell's Interpr.

For curing a Wound.

AS. queritur de W. H. &c. quod cum dictus W. H. die, *Ebor. ff.* anno, &c. apud Castrum, &c. adtunc & ibidem gravit. vulnerat. in Guttur & in tergo suis cum confosione cultelli, ipse idem W. H. in consideratione quod prefat. A. S. ad specialem instanc. & requisition. ipsius W. H. secundum optimas artem & peritiam suas Chirurgi operam daret vulnera pred. ejusdem W. H. sanare, ac studium & laborem inde impenderet, super se assumpsit, & eidem A. S. adtunc & ibidem fideliter promisit, quod ipse idem W. H. tantas denar. summas quantas pred. A. pro opere & labore suis & pro medicamentis ad sanand. vulnera predicta ejusdem W. H. impen. rationabilit. habere meretur, eidem A. S. cum inde requisit. fuisset, bene & fideliter solvere & contentare vellet. Et predictus A. S. in facto dic. quod studium, labor & opera ad sanand. vulnera ipsius W. H. & expensi sui inde rationabilit. valebant 30 s. &c. predictus tamen W. H. promissionem & assumptionem suas predictas minime curans, sed machinans & fraudulerenter intendens eundem A. S. in hac parte callide & subdole decipere & defraudare, &c.

For a Labourer's Hire.

MR. queritur de G. N. &c. quod cum predictus G. N. *Ebor. ff.* die, anno, &c. in consideratione quod predictus M. K. adtunc & ibidem ad requisitionem ejusdem G. N. defalcaret quedam jampna vocata *Whins*, ejusdem G. M. tunc crescent, & existent. In quodam Claudio voc. le O. jacent. infra praesinet. villa de H. in Com. predicto, & faceret eadem jampna in fasciculis jampnos. anglice *Whinkins*, five fasciculos, super se assumpsit, ac eidem M. R. adtunc & ibidem fideliter promisit quod ipse idem G. N. quant. placeret five contentare eidem M. K. pro opere & labore suis in defalcat. & faciend. dicta jampna in fasciculos in Claudio predicto tamdiu prefat. M. R. adeo operaret & laboraret pro pred. G. N. cum inde postea requirit. fuisset, bene & fideliter solvere & contentare vellet. Et pred. M. R. in facto dicit, quod ipse congruerenter defalcavit jampna pred. & illa fecit in fasciculos pro pred. G. N. in Claudio predicto per spacium unius diei integri tunc prox. sequent. & quod optime meruit 12 d. pro stupendio pro opere & labore suis illius diei & quod 12 d. est rationabilis sum. ei placere &

contentare pro dict. opere & labore dicti istius in defalcat. & faciend. lampna predicta in fasciculos, ut preferatur unde idem G. N. habuit notitiam pred. tamen G. N. promissionem & assumptionem suas pred. minime curans, sed callide & subdole intendens eundem M. R. in premissis decipere & defraudare, licet, &c.

In Consideration that the Plaintiff would deliver unto one E. L. certain Mercury-Wares, if he did not pay for them, the Defendant would.

Ebor. ff.

P. B. Ar. virtute brevis, &c. queritur de H. S. de placito, &c. quod cum die, anno, &c. apud Castrum, &c. In consideratione quod pred. P. B. (tunc & adhuc existent. Metaxar. anglice a Mercur. de Civitate Ebor.) deliberaret E. L. pro usu ejusdem E. L. tales parcelas Mercimoniorum, anglice *Mercury Wares*, quales ipse idem E. L. accipiat & recipiat de pred. P. B. ipse idem H. S. super se assumpt. & eidem P. B. adtunc & ibidem fideliter promisit, quod si pred. E. L. non solveret & satisfaceret dicto P. B. pro pred. Mercimonis ad talia ratas & precia qualia iidem E. L. & prefat. P. B. consentiant quod ipse idem H. S. bene & fideliter solvere & satisfacere vellet eidem P. B. omnes tales denar. summas quales iidem E. L. & P. B. consentiant pro ratis & preciis dictorum mercimoniorum infra dict. diem, annum, &c. & primum diem Maii, tunc prox. sequent. Et pred. P. B. in facto dic. quod postea, scilicet, die, anno, &c. apud Castrum, &c. pred. prefat. E. L. accepit & recepit de pred. P. B. mercimonia inferius mentionata, videlicet, septem virgat. atri pannilanei vocat. *Flanders Serge*, pro 38 s. & quinq; virgat. cuiusdam panni lanci vocatur *Italiano* pro 26 s. legalis, &c. que quidem rate & precia adtunc & ibidem concordata fuer. inter dict. E. L. & prefat. P. B. & attingebant in toto ad sum. 3 l. 4 s. &c. quam quidem sum. &c. vel aliquod inde denar. prefat. E. L. nondum solvit vel satisfecit eidem P. R. pred. tamen H. S. promissionem & assumptionem suas pred. minime curans, sed machinans, &c.

Slander for calling the Plaintiff Thief, &c.

Ebor. ff.

E. F. queritur de G. S. de placito, &c. pro eo quod cum pred. E. F. bonus, verus, fidelis & honestus subdit. & liegeus Domini Regis nunc sit, & tanquam bonus servus & fidelis liegeus dict. Domini Regis & progenitorum suorum nuper Regum & Reginarum Anglie, a tempore Nativitatis sue hucusque se gesserit, habuerit & gubernavit, & bonorum nominis, famae, conditionis, conversationis & reputationis, tam apud venerabiles personas, quam alios fideles subdit. dict. Dom. Regis pro-

progenitorum suorum, quibus idem E. F. not. fuerat ac cum quibus idem E. F. quoquomodo consortium habuerat per totum tempus pred. habit. not. dictus & reputat. fuerat, absq; aliqua macula. furti, felonie, latrocinii, aut alicujus alias falsitatem. seu criminis nocivi sive suspicione inde hucusq; illæsus & intact. semper vixit & remansit. pred. tamen G. S. præmissorum non ignarus, sed machinans & malitiose intendens eundem E. F. non solum in bonis nomine, fama, opinione, credentia, estimatione & reputatione suis, ledere, detrahere, pejorare, & penitus destruere, verum etiam eundem E. F. in perturbationem, vexationem & infamiam, ac bonorum & catallorum suorum forisfactur. inducere die, anno, loco, &c. in Com. pred. ac infra Jur. hujus Curie hæc falsa, malitiosa, & scandalosa verba eidem E. F. & de eodem E. F. in præsent. & audit. quamplurimorum fidelium subditorum dict. Dom. Regis nunc, palam & publice, falso & malitiose dixit, retulit, propalavit & publicavit in his verbis sequentibus, *Thou* (pred. E. F. innuend.) art a *Thief*, and I (pred. G. S. innuend.) will prove thee (eundem E. F. innuend.) a *Thief*, and a *Horse-stealing Thief from thy Gradle*. Quorum quidem falsorum & scandalosorum Anglicanorum verborum dictionis & propalationis pretestu idem E. F. non solum in bonis nomine fama credent. estimation. & reputation. suis pred. multipliciter lœsus & deteriorat. existit, verum etiam in magnam infamiam & publicum opprobrium illapsus est, ita quod diversis personis honest. & fidel. subdit. dict. Domini Regis nunc, qui ante illud tempus consortium habere cum eodem E. F. usitat. fuer. & ipsum multopere estimarunt seipso a consortio & societate ejusdem E. F. retrahunt, & intromittere & commercium habere cum eodem E. F. penitus recusant, ad grave dampnum ipsius E. F. 39 s. Et in de produc. sextam, &c.

For slanderously calling the Plaintiff Bankrupt.

E. B. queritur de E. M. de placito transgr. super Casum Ebor. s. quod cum pred. E. B. bonus, verus, fidelis & honestus subdit. & ligeus Domini Regis nunc sit, & tanquam bonus, honestus & fidelis subdit. dict. Domini Regis nunc & a tempore Nativitatis sue hucusq; fuit & adhuc existit, sine ulla macula sive suspicione doli, corruption. decoctorem agendi, sive fraudis, vel eorum aliquorum gessit, vixit & gubernavit, & bonorum nominis. famæ, credent. & estimationis fiduciae, & conservationis magnarumq; copiarum semper adhuc reputat. fuit & nabit. & honeste, juste & fideliter omnibus intromissionibus & negotiis cum quibuscunq; habit. & fact. per totum tempus pred. vixit, & se gessit. Et cum pred. E. B. die, anno, &c. & per spatium decem annorum ult. præterit. & continue postea hucusq; artem, mysterium sive facultatem

Pharmacopolæ, anglice an Apothecary, ejusdem Civitatis Ebor. exercuit & usitat. victimum suum & sustinent. ipsius & familiæ sue exercendo & tractando artem mysterium sive facultatem pred. per totum tempus pred. bene, copiose & sufficienter acquisivit & lucrat. fuit, ac etiam diversis ingent. denariis sum, licite emend. & vendend. Mercaturam faciend. & barganizand. super credentiam suam diversorum Mercimoniorum & aliarum rerum arti, mysterio sive facultati ipsius E. B. pertinent ad meliorem sustentationem ipsius & familie sue, & ad magnum incrementum divitiarum suarum, juste & honeste per totum tempus pred. impetravit, ac orantes & finguulos denar. summas pro rebus vel mercimoniis quibuscumque per ipsum de aliquibus personis per totum tempus pred. super credentiam empt. vel recept. vel ullo modo debit. ipse idem E. B. alicui personæ eidem E. B. sic fidem adhibet. juxta stipulationem & agreement. inter eos concordat. & fact. absque fraude vel dilatione persolvisset; quibus premissis, ac etiam ratione honesta conversationis erga omnes person. ipse idem E. B. suam credent. & bonam opinionem inter omnes vicinos suos ac al. honorabiles person. hujus Regni Angl. quibus not. fuit merito habuit, & sibi lucrat. fuit: pred. tamen E. M. premissor. non ignorans, sed sortem & conditionem pred. ipsius E. M. malitiose invidens, & machinans, imaginans & fraudulenter intendens dict. stat, nomen, famam credentiam, fiduciam & estimationem ejusdem E. B. ledere & deprivare, & ad faciend. eundem E. B. in penuriam infamiam & indigentiam incidere, & pro viro pravae conversationis estimari, ac etiam pro decoctore & viro nullius fidei inter omnes fidel. subdit. dict. Domini Regis, ita quod illi omnes a consortio ipsius E. B. tanquam decoctoris vel viri nulla credenc. digni seipso omnino subtraherent & quidam omnino cessarent & abstigerent cum eodem E. B. barganizare, emere vel intromittere, postea, scilicet, die, anno, &c. pred. apud Castrum Eborum ac infra Jur. pred. hujus Curie, hac falsa, scandalosa & opprobriosa Anglicana verba sequent. de eodem E. B. in praesentia & audit. diversorum dict. Domini Regis nunc fidel. subdit. & credent. dignorum, falso, maliciose & scandaloso dixit, retulit, & alta voce propalavit. Videlicet, E. B. dictum (E. B. quer. innuend.) is a Rogue, and a Bankrupt, and I (scilicet E. N. modo defend. innuend.) will prove him one: quorum quidem falsorum, scandalosorum, & opprobrioforum verborum, dictiorum, propalationis & publicationis pretextu idem E. B. non solus in bonis nomine, fama, credent. fiduc. & estimatione suis pred. multipliciter laesus & scandalizat. existit, verum etiam de maxima parte proficuer. artis sue pred. deprivat. existit, & penitus spoliat. eo quod dicti vicini sui & al. fidel. subdit. dict. Domini Regis de prefat. E. B. emere, mercaturam agere, barganizare, vel aliqualiter tractare vel intromittere, omnino diffidunt & recusant, & eundem E. B. pro consumptore, profligatore & detentatore aia. re-

rum

rum & denar. reputant, & ipsum talēm esse censeunt, per quod pred. E. B. non solum in exercitio & manutentione artis mysterii, vel facultatis suorum graviter impedit. & status & copia sui magnopere enervat. & consumpt. sed etiam diversis ingent. denar. sum. in & circa defensionem iphius de premissis pred. super ipsum import. pro recuperatione honorum hominis, famae, credent. fiduc. & estimationis suorum pred. disponere & erogare, coactus & compulsus fuit. Unde prefat. E. B. dic. quod deteriorat. est, & dampnum habet ad valēt. 200 l. Et inde produc. sectam. &c.

In Consideration that the Plaintiff would marry Es R. the Defendant promised to make him worth 200 l.

Ver. &c. queritur de P. W. de placito. &c. eo quod. Ebor. ff. cum die, anno, &c. apud Castrum, &c. quoddam Colloquium habuit & mot. fuit. inter pred. W. P. &c. E. 4.f. 6. eundem P. W. de & concensu. Maritag. inter prefat. W. P. &c. 15 E. 4.f. 32. & quandam E. R. fil. cuiusdam S. R. de Ge. in Com. &c. dic. 217 E. 5.f. 5. tusque P. W. in consideratione quod prefat. W. P. ad specialem instant. & requisitionem ipsius P. W. iuxta leges & ritus Ecclesiasticos hujus Regni Angl. ex assensu dicti S. R. in uxori rem duceret predictam E. R. superse assumptionem, & ejdem W. P. adiungit & ibidem fideliter promisit quod ipsa ident. P. W. faciat rest eundem W. P. valere 200 l. & amplius, immediate posti maritag. inter pred. W. P. & eandem E. R. habitum & som lemnizat. Et pred. W. P. in facto dic. quod ipse sub spe fidelis performanceis & assumptionis pred. ejusdem P. W. & al. special. instant. & requisition. dict. W. P. postea, scilicet, die, anno, &c. apud, &c. pred. prefat. W. P. iuxta leges & ritus Ecclesiasticos hujus Regni Angl. ex assensu dicti S. R. in uxori rem duxit pred. E. R. pred. tamen P. W. promission. & assumption. suas pred. minime curans, sed machinans & fraudulenter intendens eundem W. P. in hac parte callide & subdole decipere & defraudare pred. W. P. non fecit valere 200 l. &c. & amplius, licet postea scilicet, die, annos &c. apud, &c. pred. per eundem W. P. inde requisit. fuit, sed ad hoc facienda hucusq; recusavit, & adhuc recusat, ad dampnum, &c. sib om

For stopping up another's Light, for depriving him of Air, and the Passage of Rain.

T P. &c. queritur de A. B. &c. de placito transgr. supēt casum quare cum pred. T. P. per spaciū septem annorum nunc ult. præterit. fuit & adhuc existit seisitus de uno antiquo Messurg. cum pertin. in S. pred. in Dominico suo ut de feodo

Case.

feodo. in quo Messuag. prefat. T. P. & familia sua per totum tempus pred. inhabitaverunt, & adhuc inhabitant. Ac etiam cum pred. A. B. per spacium trium annorum ult. elaps. fuit & adhuc existit possessionat. de un. al. Messuag. cum pertin. in S. pred. adjacent. & contigae eidem Messuag. ipsius T. P. ex occidental. ejusdem Messuagii ipsius T. P. Ac etiam cum in dicta parte occidental. ejusdem Messuag. idius T. P. a tempore cuius contrarii memoria hom. non existit. fuer. & adhuc existunt duæ antiquæ Fenestræ parcell. ejusdem Messuag. ipsius T. P. per quas Fenestras non solum lumen usitat. fuit fulgere in dict. Messuagium ad illud illuminand. sed etiam salubrigr. aer usitat. fuit ingredi in dict. Messuag. pro salubritate ipsius T. P. & familie sue in eodem resident. Et pred. T. P. de Messuag. suo pred. sicut præfertur se sit. Et dictus A. B. de dicto Messuag. suo cum pertinen. possessionat. idem A. B. præmissorum non ignarus. sed malitiose intendens Fenestras pred. obstruere. & eundem T. P. de lumine & aere salubri pred. Fenestras in Messuag. pred. ipsius T. P. fulgend. & ingrediend. deprivare. tali die & anno. apud S. pred. construxit & erexit. & a tempore illo hucusq; continuavit quandam dom. super pect. terr. vocatur le Backside. parcell. dict. Messuag. ipsius A. B. adeo prope eidem Messuag. ipsius T. P. & duobus Fenestris pred. quod non solum duæ Fenestræ pred. obstruct. fuer. & per illud prefat. T. P. & familia sua deprivat. de lumine & aere salubri quaæ usitat. fuit. per dictas Fenestras in Messuag. pred. ipsius T. P. fulgere & ingredi. sed etiam aquæ pluviales a Messuagio pred. ipsius T. P. caden. impedit. & pluvia in transiendo adeo impedit. ad & subter fundament. ejusdem Messuag. ipsius T. P. Unde Fundament. ejusdem Messuag. labefact. & Messuag. probabiliter ruitur. ad grave damnum ipsius T. P. Et inde produc. sectam. &c.

For teaching the Defendant's Child the Latin Tongue, &c.

Ebor. fl.

P. G. per I. R. Attorn. suum queritur de I. A. de placito transgr. super Casum. &c. eo quod cum pred. I. A. primo die Aug. anno. &c. apud. &c. in Com. &c. in consideratione quod pred. P. G. pro & durant. tempore 12 mensium & viginti dierum tunc ult. præterit. docuisset & instituisset I. A. fil. natural. ejusdem I. A. in rudimentis & doctrina Lingue Latinæ. & a pred. primo die Augusti. anno pred. apud H. pred. docuisset & instituisset prefat. I. S. fil. tamdiu place-ret ambabus partibus. in doctrina Lingue Latinæ pred. super se assumpsit. & eidem P. G. adtunc & ibidem fidelit. promisit. quod ipse idem I. A. pater tantas denariorum summas quantas pred. P. pro instructione & doctrina ejusd. I. A. fil. per totum tempus pred. rationab. mereretur eidem P. cum ipse idem I. A.

I. A. pater inde requisit. fuisse, bene & fideliter. solvere & contentare vellet. Et pred. P. G. in facto dic. quod ipse promissioni & assumptioni pred. prefat. I. A. patris fidem adhibens, instituit & docuit eundem I. A. fil. in doctrina pred. a pred. primo die Augusti usq; ad ult. diem Julii, anno, &c. Et quod ipse idem P. pro instrutione & doctrina pred. ejusdem I. A. fil. durant. toto tempore pred. existent. duodecim menses & viginti dies rationabilit. meruit. viginti solidos legalis monetæ Angl. pred. tamen I. A. pater promissionem & assumptionem suas pred. minime curans, sed machinans & fraudulentiter intendens eundem P. G. &c.

For Diet, and Time given for Payment of the Debt.

ND. per, &c. queritur de I. B. de placito transgr. super Casum, eo quod cum quinto die, &c. apud, &c. pred. I. B. indebitat. fuit eidem N. D. in octodecim solidis, &c. pro cibo & potu quibus prefat. N. D. apud Castrum, &c. ipsum supplevit, & sic indebitat. existent. in consideratione quod pred. N. D. adtunc & ibidem apud Castrum Eborum in Com. Ebor. & infra libertatem & jurisdictionem hujus Curie ad special. instanc. & requisitionem ejusdem I. B. tempus daret pro solutione eorundem 18*s.* usque ad prox. diem sequent. ipse idem I. B. super se assumpit, & eidem N. D. adtunc & ibidem fideliter promisit, quod, &c. prox. diem bene & fideliter solvere & contentare vellet. Et licet pred. N. D. usque ad prox. diem sequent. & hucusq; precepit solutionem eorum 18*s.* pred. tamen I. B. promissionem & assumptionem suas pred. minime curans, sed machinans & fraudulentiter intendens eundem N. D. &c.

*Upon an Assumption so farre one barmless upon
Obligation.*

Ebor. 1.

AB. virtute brevis de Justic. &c. queritur de C. D. de placito transgr. super Casum, &c. Eo quod cum pred. A. B. (die & anno) apud Castrum Eborum in Com. predictio, & infra Jurisdictionem hujus Curie ad special. iustanc. & requisitionem predicti C. D. per scriptum suum obligator. gerent. dat. eisdem die & anno, obligat. fuit una cum predicto C. D. & pro debito ipsius C. D. propriis cuidam E. F. super condition. inde indors. quod si pred. C. D. eidem E. F. ad certum diem in eadem conditione content. 10*t.* legalis. &c. solveret, quod tunc scriptum illud vacuum foret & effect. nullius, aliter stataret & remaneret in robore & virtute suis: pred. C. D. postea, scilicet, tali die, anno & loco, &c. in consideratione predicta super se assumpit & eidem A. B. adtunc & ibidem fideliter

notioe is etiis libet predictis temporibus tunc postea ipso in quod predictus C. D. omnibus temporibus tunc postea exoneret pred. A. B. versus pred. E. F. a predicto scripto obligatorio predictam C. D. promission & assumption suas minime curans, nondum exoneravit pred. A. B. a predicto scripto obligatorio licet ad hoc faciend. s. epius requirit, per eundem A. B. Unde idem A. B. dic. quod deteriorat, est, & dama. &c.

For keeping a Dog accustomed to bite Sheep.

Ebor. fl.

A. B. virtute, &c. queritur de C. D. &c. quod cum predictus C. D. apud M. servabat & retinebat quendam canem ad mordendum oves consuet. sciens canem illum ad mordeendum oves esse consuet. qui quidem canis viginti vervecos, anglice *Wether sheep*, viginti matrices anglice *Ewes*, & viginti agnellas ipsius A. B. ad valorem x*l.* apud, &c. pred. onerent *xiii* die Maii, anno Regni Domini nunc Regis Caroli Secundi *xiv.* tam graviter mordebat, quod ii oves & ii agnell. predict. per morsum ejusdem canis adtunc & ibidem interierunt; unde idem A. B. dic. quod deteriorat, est & dampnum habet ad valenc. *xx l.* Et inde produc. sectam, &c.

Another.

A. B. virtute brevis, &c. queritur de C. D. de placito, &c. quod cum predictus C. D. viii die Junii, anno, &c. apud, &c. quendam canem ad mordendum oves assuet. retinebat sciens canem, &c. (ut supra) qui quidam canis die & anno apud, &c. predictas oves, scilicet, *le*xdecim vervecos, & triginta oves matrices, & octo agnellas ipsius A. B. fugavit & momordit, ita quod per fugationem & morsum illa sex de predictis vervecis, xii de predictis oviculis, & quatuor de predictis agnella*s* ad valorem *x l.* interierunt, & resid. scilicet, octodecim ovicularum gravidarum agnellas suas proje*c*er. abort. Et resid. dictorum verycum multo deteriorat. fuerunt; & alia enormia, &c.

Against an Inn-keeper for a Horse lost.

A. B. virtute brevis, &c. queritur de C. D. Hospitatore de placito trans*r*. super *Cassum*, quod cum secundum leges & consuetudines hujus Regni Angliae Hospitalores qui communia Hospita tenent & servant ad Hospitandum viatores per eas partes ubi hujusmodi Hospita existunt & in illis Hospital. preservare tenentur nocte*d*, die*q*, bona sua infra Hospita illa, ab*q*; aliqua diminutione vel damno, ita quod per defalcat. hujusmodi Hospitalorum vel tervient. eorum nullum damnum

num ullo modo contigerit vel acciderit Hospitibus suis. Et cum pred. C. D. ante x diem Marcii, anno, &c. ac eodem x die, &c. commune Hospitium voc. *the Sign of the White Hart in Skippon in Craven*, pred. in Com. pred. & infra jurisdictionem hujus Curiae tenuit & servavit, & ipsum eundem A. B. in eodem Hospitio tanquam Hospitem suum adtunc & ibidem accepit. Et prefat. A. B. adtunc & ibidem in Hospitium predictum unum Spadonem albi coloris, precii x librarum importavit, quem quidem Spadonem pred. C. D. in custodia sua adtunc & ibidem recepit & habuit; quidam tamen Malefactores prefat. A. B. incognit. p[ro]pstea, scilicet, predicto x die Marcii, anno predicto Spadonem predictum sub Custodia pred. C. D. in Hospitio pred. existent. adtunc & ibidem invent. pro defectu bona conservationis predicti C. D. & servientium suorum, ceperunt. & abduxerunt, contra legem & consuetudinem predictas. Unde idem A. B. dic. quod deteriorat. est & dampnum habet, &c.

Upon a Horse-Race.

G. per I. R. Attorn. suum queritur versus D. M. de *Ebor. ff.* placito transgr. super Casum, &c. Eo quod cum (tali die & anno) apud, &c. quoddam colloquio habitum fuit inter pred. G. G. & D. M. concernent. Cursum Equestrem curreret, per Spadonem ipsius G. G. & Spadonem ejusdem D. M. a B. predicta, ad quandam domum voc. *Dexes* in Com. predicto; super quod colloquio sic habit. in consideratione quod pred. G. G. ad special. instanc. & requisitionem ejusdem D. M. adtunc & ibidem solvit & depositit in man. cuiusdam *Margarette* uxor. cuiusdam I. W. duos solidos & sex denar. legalis, &c. ac etiam in consideratione quod predictus G. G. adtunc & ibidem se obligavit dare, & deliberare eidem D. M. pred. Spadonem ipsius G. G. si Spado ille non supercurseret dict. badium Spadonem ejusdem D. M. a B. pred. ad dictam domum voc. *Dexes*. Et quod si predictus G. G. ibidem non relinquaret spiram ejus, anglice *bis Hether*, antequam dictus Spado veniret ad dictam domum voc. *Dexes*, prefat. D. M. xx die Maii anno predicto, apud B. predictum, & infra jurisdictionem hujus Curiae super se assumpsit, & eidem G. G. adtunc & ibidem fideliter promisit, quod si pred. Spado ejusdem G. G. supercurreret dict. Spaddhem ipsius D. M. a B. predicta ad dictam domum voc. *Dexes*; & quod prefat. G. G. Spiram suam ibidem relinquerebatur antequam dictus Spado ipsius D. M. ad dictam domum veniret, quod tunc prefat. D. M. pred. Spadonem ejus eidem G. G. ad usum ipsius G. G. daret & deliberaret, cum idem D. M. inde postea requisit. fuisset. Et pred. G. G. in facto dic. quod. pred. Spado ipsius G. G. adtunc & ibidem

supercurrebat dictum Spadonem ejusdem D. M. a B. predicta ad dictam domum vocatam *Dexes*; & quod ipse idem G. G. relinquebat spiram suam ibid. antequam predictus Spado ipsius D. M. veniebat ad dictam domum voc *Dexes*. Ac etiam cum dicto xx die Maii, anno predicto, apud B. predictam, & infra jurisdictionem predictam, in consideratione quod predictus G. G. ad special instanc. & requisitionem ipsius D. M. adtunc & ibidem solvit & depositus in man. dict. *Margarete ux. dict.* I. W. duos solidos & sex denar. legalis, &c. Ac etiam in consideratione quod predictus G. G. adtunc & ibidem seipsum obligavit solvere prefat. D. M. xx s. consimilis legalis monete, si predictus Spado ejusdem G. G. nou. supercurret predictum badium Spadonem ipsius D. M. a B. pred. usq; ad dictam domum voc. *Dexes*; & quod prefat. G. G. ibidem non relinquere spiram suum antequam dictus Spado ipsius D. M. veniret ad dictam domum predictus D. M. predicto xx die Maii anno Supradicto apud B. predict. infra jurisdictionem pred. super se assumpit, & eidem G. G. adtunc & ibidem fideliter promisit quod si predictus Spado ejusdem G. G. supercurret predict. Spadonem ipsius D. M. a B. predicta ad domum predictam voc. *Dexes*; & quod predictus G. G. spiram suam ibidem relinquet antequam predictus Spado ipsius D. M. ad domum predictam veniret, quod tunc prefat. D. M. xx s. &c. eidem G. G. cum ipse idem D. M. inde postea requisit. fuisset bene & fideliter solvere & contentare vellet. Et predictus G. G. ut prius in facto dic. quod ejus Spado pred. adtunc & ibidem supercurrebat Spadonem predictum ipsius D. M. a B. predicta usque ad domum predictam voc. *Dexes*; & ipse idem G. G. spiram suam ibidem relinquebat antequam dictus Spado ipsius D. M. ad domum pred. voc. *Dexes*, veniebat: predictus tamen D. M. promission. & assumption. suas predictas minime curans, sed machinans, & fraudulenter intendens eundem G. G. in hac parte callide & subdole decipere & defraudare, predictum Spadonem ejusdem D. M. eidem G. G. nondum deliberavit, nec pred. xx s. eidem G. G. nondum solvit, seu aliqualit. pro eiusdem contentavit, licet pred. D. M. postea, scilicet, xxi die Maii, anno, &c. apud B. predict. & infra jurisdictionem predictam, inde requisit. fuit: Unde pred. G. G. dic. quod deteriorat. est, & dampnum habet ad valenc. &c. Et inde produc. sectam, &c.

Another upon a Horse-Race.

Ebor. II.

IH. virtute brevis, &c. queritur de B. D. de placito, &c. I. Eo quod cum xx die Maii, anno, &c. apud Castrum, &c. quoddam Colloquium mot. & habit. fuisset inter pred. I. H. & prefat. B. D. de &c. conseruent. cursum equestr. currer. per

per cesiam equam ipsius I. H. & badium Spadonem ejusdem B. D. ter circa cursum sicut sudibus posit. fuit, voc. *& Town-Race*, existent. super Moram de A. predicta: super quod colloquium adtunc & ibidem concordatum fuit inter predictum I. H. & eundem B. D. quod prefat. I. H. equitaret cursum predictum super eundem cesiam equam; & quod predictus B. D. equitaret cursum pred. super pred. badium Spadonem; & quod pred. B. D. & I. H. componderentur, & qui eorum minus foret ponderosus, oneretur tanto ampliori pondere quantum ipsum æqui ponderis cum altero faceret; & super hoc agreement. pred. I. H. adtunc & ibidem solvit dicto B. D. **xx s.** Et in consideratione inde idem B. D. adtunc & ibidem super se assumpit, & eidem I. H. fideliter promisit ei solvere **xl s.** Et si pred. cesia equa ipsius I. H. curs. pred. lucaret; ac etiam quod pred. B. D. curs. pred. curreret tanto pondere quant. ipse careret de pondere dict. I. H. Et pred. I. H. in facto dicit quod pred. I. H. & B. D. adtunc componderat. fuer. & quod pred. B. D. invent. fuit minus ponderos. dicto I. H. vix quatuordecim libr. ultraq; Et inde dict. B. D. congruenter onerat. fuit pondere, & pred. B. D. adtunc & ibidem dict. curs. cucurrit: pred. tamen B. D. promission. & assumption. suas pred. minime curans, sed machinans & fraudulenter intendens eundem I. H. in hac parte callide & subdole decipere & defraudare, ipse idem B. D. **xx** die Maii, curs. pred. non cucurrit super dict. badium Spadonem æquo pondere dicto I. H. juxta promission. pred. & postquam cursus finit. fuit pred. B. D. componderari dicto I. H. recusavit, ita quod pred. B. D. eundem I. H. in hoc decepit: Unde dic. quod deteriorat. est & dampnum habet ad valenc. **5 l.** Et inde produc. sectam, &c.

For keeping a Child, and finding it Meat, Drink and Apparel.

E. B. virtute, &c. queritur de R. E. de placito transgr. su. *Ebor. sc.* per Casum, &c. Eo quod cum (tali die & anno) apud, &c. in consideratione quod pred. E. B. ad special. instanc. & requisitionem ejusdem R. E. quend. A. B. fil. dicti R. E. cibo, potu & amictibus competent. manuteneret, & servaret, & aliis necessariis, ita quod dict. puer in defectu ipsius E. B. nec unquam postea eidem R. E. onerosus esset ipse idem R. E. die & anno pred. apud, &c. super se assumpit, ac eidem E. B. adtunc & ibidem fidelic. promisit, quod ipse idem R. E. **7 l.** legal. monetæ Angliæ eidem E. B. cum inde postea requisit. fuisset, bene & fideliter solvere & contentare vellet. Et pred. E. B. in facto dic. quod ipsa eadem E. B. eundem A. B. a die & anno pred. hucusq; cibo, potis amictibusq; competent. & aliis necessariis manutenuit & servavit, ita quod pred. puer ex-
tunc

tunc hucusq; pred. R. E. non operavit : pred. tamen R. E. promis. & assump. &c.

For Breach of Agreement, in not taking the Son Apprentice.

B. F. per breve, &c. queritur de T. F. de placito transgr. super Casum, &c. Eo quod cum primo die Marcii, &c. anno, &c. apud, &c. in consideratione quod pred. B. F. super se assumpsit, & eidem T. F. 13 l. &c. promisit, quos ipse postea & ante compensationem hujus sectae, solvit eidem T. F. prefat. T. F. super se assumpsit & eidem B. F. adtunc & ibidem fideliter promisit, quod ipse prefat. T. F. quendam W. F. fil. ejusdem B. F. pro Apprentice suo acciperet servire pred. T. F. in arte sive mysterio Pellionis, a pred. primo die Marcii, usq; ad plenum finem & terminum septem annorum, extunc prox. sequent. & quod pred. T. F. post finem trium quarter. un. anni prox. post pred. primum diem Marcii, institueret, informaret, & educaret eundem W. F. in arte emend. & vendend. lan. apud L. in Com. Ebor. vel consimiles al. locos ubi pred. T. F. adtunc frequentabat vel postea frequentaret durant. termino pred. Et quod pred. T. F. durant. termino pred. non causaret vel cogeret pred. W. F. ad aliquod servile opus faciend. circa eundum mysterium Pellionis: & quod pred. T. F. durant. termino pred. inveniret prefat. W. F. cibatum, potum, amicta, linteal. & lanea, tibialia, calceos ac omnia alia necessaria pro Apprentice habere; & quod pred. lint. lan. tibialia, calcei, ac omnia alia necessaria a tempore in tempus provis. erint invent. pro pred. W. F. per eundem T. F. tam bon. quam ipse idem W. F. haberet tempore advent. ejus eidem T. F. Et sic daret ei simil. ad finem pred. termini septem annorum: Et quod pred. T. F. signaret & deliberaret eidem W. P. un. indentur, scrip. pro performance convention. pred. & al. usual. convention. de Apprentice. in eo genere: pred. tamen T. F. promiss. & assumptionem suas pred. minime curans, sed machinans, & fraudulent. intendens eundem B. F. in hac parte callide & subdole decipere & defraudare pred. W. F. Apprentice, sum esse ad serviend. eidem T. F. in arte sive mysterio Pellionis non accepit durant. termino pred. sed cum Apprentice, si um esse accipere recusavit secund. promissionem pred. quamvis pred. W. F. parat. fuit & obtulit servire pred. T. F. in dicto mysterio secund. convention. pred. neq; pred. T. F. unquam post pred. tres quarter. un. ann. instituit, informavit, vel educavit pred. W. F. in mysterio sive arte emend. & vendend. lanas apud L. pred. vel alias locos, prout pred. T. F. tunc frequentabat secundum promissionem pred. licet sapient. requirit. neque pred. T. F. ligillabat & deliberabat Indentur.

script. eidem W. F. pro performance convention. pred. ac al. usual. convention de Apprentic. in eo genere; quamvis ult. die Septembris, anno, &c. apud Castrum Eborum in Com. Ebor. & infra Jurisdictionem hujus Curie pred. B. F. obtulit eidem T. F. Indentur script. ad eundem propositum & requisivit pred. T. F. eundem pred. W. F. deliberare. Unde pred. W.F. dic. quod deteriorat est. & dampnum habet ad valenc xx l. Et inde produc. sectam, &c.

Upon a Promise for over-loading a Horse.

P. Per breve, &c. queritur de D. de placito, &c. Eo quod cum pred. D. tali die, anno & loco, in consideration. quod prefat. P. ad special. instanc. & requisitionem ipsius D. accommodaret eidem D. quandam Equam ipsius P. ita quod quidam G. D. filius ipsius D. super eandem equam equitet & itinereatur a villa de L. in Com. pred. usq; ad B. in Com. Lancastriæ, super se assumpit ac eidem P. adtunc & ibidem, scilicet, (tali die, anno & loco pred.) fideliter promisit quod pred. G. D. eqdam pred. in itinere pred. nullo modo superoneraret: vel aliqualiter oppimeret sed eandem equam cum inde requisit. fuisset eidem P. in columem deliberaret: & pred P. in facto dic. quod ipse promission. & assumption. prefat. D. fidem adhibens, postea, scilicet, (pred. die, anno & loco) equam pred. prefat. D. accommodavit, ita quod pred. G. D. equitet & itineretur super eandem equam, ut præfertur pred. tamen G. D. equam pred. initio pred. superlaborabat, & talibus oneribus prægravabat, quod equa pred. per superonerationem, & equitationem pred. interiit; ad dampnum ipsius P. x l. Et inde produc. sectam, &c.

Promise to save harmless upon a Bond.

R. R. virtute brevis, &c. queritur de C. L. de placito transgr. super casum, &c. quare cum pred. C. L. tali die & anno, &c. apud, &c. in consideratione quod pred. R. R. adtunc & ibidem ad special instanc. & requisitionem, ipsius C. L. teneri & obligari vellet quidam G. W. per quodd. script. suum obligator. debit. forma juris faciend. sigillat, & ut fact. ejus deliberand. in 24 l. bone, &c. sub condition. pro solutio. ne 12 l. 12 s. consimilis, &c. eidem G. W. super primum diem Maii, tunc prox. sequent. apud vel in tunc dom. mansional. pred. G. W. scituat. in, &c. per pred. R. R. & C. D. vel eorum alter. faciend. super se assumpit. & eidem R. R. adtunc & ibidem videlicet, tali die, anno, &c. pred. apud L. pred. scilicet, in, &c. pred. fideliter promisit quod prefat. C. L. pred. 12 l. 12 s. eidem G. W. super pred. primum diem Maii.

Maii in exoneration. script. obligator. pred. solvere vellet : & pred. R. R. extunc postea, de & concernent. script. obligator. pred. indempnem & sine dispendo servare & præstare vellet. Et pred. R. R. in facto dic. quod ipse promission. & assumption. ipsius C. L. pred. fidem adhibens, postea, scilicet, eodem ult. die O. anno, &c. pred. apud L. &c. ad instanciam & requisitionem ejusdem, una cum prefat. C. L. pro debito peculiar. & propr. ipsius C. L. per script. suum obligator. debita forma juris fact. sigillat. & ut fact. suum deliberatum obligat, devenit in pred. 24 l. sub condition. solutionis pred. 12 l. 12 s. eidem G. W. super pred. primum diem Maii, modo & forma pred. faciend. pred. tamen C. L. promission. &c. minime curans, sed machinans, &c. defraudare pred. 12 l. 12 s. eidem G. W. super predict. primum diem Maii, secundum formam & effectum conditionis pred. nondum solvit, aut eundem G. W. pro eisdem aliqualiter contentavit, nec eundem R. R. de & concernent. script. obligator. pred. indempnem & sine dispendio servavit & præsttit, licet ad hoc faciend. prefat. L. postea, scilicet, (tali die, anno & loco) pred. per eundem R. C. requisit. per quod & quia pred. 12 l. 12 s. prefat. G. W. super pred. primum diem Maii, secundum formam & effectum condition. pred. insolut. fuer. pred. G. W. postea, scilicet, (tali termino & anno) in Curia, &c. coram, &c. implacavit eundem R. R. de & super script. obligator. pred. de pred. 24 l. Et placit. illud in tant. prosecut. fuit, quod idem R. R. non solum 15 libras de & super script. obligator. pred. prefat. G. W. solvere coact. & compuls. fuit, sed etiam diversas denar. sum. circa defension. secte pred. expendere & ergare compuls. fuit : Unde dic. quod deteriorat. est, & dampnum habet ad valenc. &c.

Trover.

I. B. virtute brevis, &c. queritur de I. C. de placito transgr. I. super Casum. Eo quod cum pred. I. B. die anno, &c. apud Castrum, &c. possess. fuisset de un cefia Equa, anglice *one grey Mare*, prec. x l. ut de bonis & catallis suis propriis, & sic inde possessionat. pred. I. B. die, anno, &c. pred. Equam extra man. & possession. suas casualiter perdidit & amisit; quæ quid. equa postea, scilicet, die, anno, &c. apud Castrum, &c. ad man. & possession. ipsius I. C. devenit : pred. tamen I. C. cert. scien. equam pred. fore equam ipsius I. B. & ad ipsum de jure spectare, & machinans eundem I. B. de pred. Equa decipere, licet saepius requisit. &c. pred. equam eidem I. B. non deliberavit sed prefat. I. C. postea, scilicet, die, anno & loco, &c. eandem equam in usum & commod. suum proprium disposit & convertit, ad grave dampnum ipsius I. B. Unde dic. quod deteriorat. est & dampnum habet ad valenc. xx l. Et inde produc. sectam. Delinue.

Definie.

T. V. virtute brevis, &c. per E. B. Attorn. suum queritur de R. M. de placito quod reddat ei bona & catalla ad valenc. xx l. &c. quæ ei injuste detinet, &c. pro eo quod cum pred. T. V. die, anno, &c. apud Castrum Eborum deliberavit eidem R. M. un. vacc. nigri coloris, precii C s. un. cefium Equulum, anglice *a gray Nag*, precii x l. & xiv virgat. gallici viridis panni lat. anglice *French green Broad-Cloth*, ad valenc. C s. pro eodem T. Salvo custodiend. & eidem T. V. cum ipse idem R. M. inde requisit. fuisse liberand. pred. tamen R. M. licet saepius inde requisit. bona & catalla predicta eidem T. V. nondum redeliberaverit, sed illa ei hucusq; redeliberare contradixit, & adhuc contradicit & injuste detinet. Unde pred. T. V. dic. quod deteriorat. est & dampnum habet ad valenc. x l. Et inde produc. sectam, &c.

I. B. per T. W. Attorn. suum queritur de C. F. de placito transgressionis super Casum, &c. pro eo viz. quod cum pred. C. F. (die & anno) apud S. in Com. pred. ac infra jurisdictionem hujus Curie in consideratione quod ipse idem I. B. ad speciales instantiam & requisitionem predicti C. F. assignaret prefato C. F. remaner. termini sui duorum annorum quod habuit in uno Cluso prati cum pertin. jacen. & existen. in S. pred. in Com. pred. ac infra Jurisdictionem pred. ante vicecum quintum diem Martii tunc instantis super se assumpit & eidem I. B. adtunc & ibidem fideliter promisit quod ipse idem C. F. triginta solidos legalis, &c. eidem I. B. ad sigillationem ejusdem assign. bene & fideliter solvere & contentare vell. Et idem I. B. in facto dicit, quod ipse idem I. B. postea & ante pred. 25 diem Martii pred. scil. 20 die Marcii, anno regni Domini Regis nunc viceculo nono supradict. apud S. pred. ac infra, &c. per scriptum suum sub sigillo ipsius I. B. assignavit eidem C. F. remaner. termini sui pred. in Cluso pred. ad pred. instantiam & requisitionem dicti C. F. predictus tamen C. F. promissionem & assumptionem suas predictas minime curans, &c. pred. triginta solidos eidem I. B. non solvit. &c.

A. B. per I. S. Attorn. suum queritur de E. F. de placito transgressionis super Casum, &c. pro eo videlicet quod cum idem A. B. (die & anno) apud Castrum Eborum in Com. pred. ac infra jurisdictionem hujus Curie emebat de eodem E. F. duos boves pro quadam pecunia summa adtunc & ibidem eidem E. F. per ipsum A. B. agreat. solvend. presat. E. F. in consideratione inde super se assumpit & eidem A. B. warrantizabat quod predicti duo boves ad hauriend. apti & assueti fuissent & in hauriend. quieti & ordinati forent ubi revera boves

Trespass.

ves pred. ad hauriendo. minime apti aut affoeti fuissent & tunc in hauriendo furiosi inquiet. & inordinati fuerunt, & adhuc existunt. Et sic predictus E. F. ipsum A. in vendicione duorum bovium pred. callide & subdole adtunc & ibidem decepit & defraudavit per quod diversa ardua negotia ipsius A. in Agricultura per spacium quatuor mensium infecta remanser. ad dampnum, &c.

A. B. per T. W. Attorn. suum queritur de C. B. de placito transgressionis super Casum, &c. pro eo videlicet quod cum predictus A. (die & anno) apud C. in Com. pred. ac infra Jurisdictionem hujus Curiae arrestat, fuit ad secam prefati C. pro certo debito decem librarum, cumq; etiam postea scil. (die & anno) apud C. pred. ac infra Jurisdictionem pred. quedam communicatio habita & mota fuisset inter eundem C. & prefatum A. concernent. solutionem vel depositionem anglice *tender*, pred. sum. decem librarum utrum eadem solatio sive depositio fuit facta ante arrestationem illam idemq; C. eidem die & anno supradict. apud C. pred. ac infra, &c. in consideratione quinq; solidorum legalis monetæ Angliae per prefatum A. eidem C. adtunc & ibidem in manibus solut, super se asumpsit, & eidem A. adtunc & ibidem fideliter promisit quod ipse idem C. vigint. solidos consimilis monetæ Angliae prefato A. cum inde requisit, esset bene & fideliter solvere & contentare vellet, si pred. sumum decem librarum per eundem A. solut. fuisset seu deposit. anglice *tendered*, pred. C. ante arrestationem predictam. Et predictus A. in facto dicit quod eadem summa decem librarum, adtunc & ibidem per eundem A. solut. fuisset vel deposit. anglice *tendered*, eidem C. ante arrestationem illam pred. tamen C. promission. & assumption. suas pred. ut prefertur saepe minime curans, &c. predict. viginti solidos eidem A. non solvit nec pro eiusdem aliquitalia contentavit, licet ad hoc, &c.

For breaking the Plaintiff's Stall in the Market, and assaulting him.

A. O. queritur de W. C. de placito transgr. Eo quod pred. A. W. C. die, anno, &c. apud S. in Com. predicto, & infra Jurisdictionem hujus Curiae super ipsum A. O. insult. fec. & repositorium, anglice a *Stall*, ibidem in Mercato posit. & erect. fregit & intravit, & mercimonia sua videlicet, alutam, anglice *drest Leather*, ad valenc. C. s super repositorio suo predicto imposuit. dispositus prostrernavit & spoliavit, & al. enormia

Crespals.

LL

mia ei intulit, ad grave dampnum ipsius A. O. Unde dic. quod deteriorat. est & dampnum habet ad valenc. x l. Et inde produc. sectam, &c.

For breaking the Plaintiff's Close, &c.

A. queritur de T. S. de placito transgr. &c. Eo quod cum I. pred. T. S. die, anno, &c. quoddam clausum ipsius I. A. voc. C. apud S. in Com. &c. fregit & intravit, & herbam ipsius I. A. adtunc & ibidem crescen. valor. x s. cum quibusdam averiis, videlicet, vaccis, bobus, juveni. equis, porcis & bidentibus depast. fuit, conculcavit, consumpsit & spoliavit, transgressionem pred. a pred. die, anno, &c. pred. durant. termin. unius mensis integr. tunc proxim. sequent. diversis diebus & vicibus continuand. ac alia enormia ei intulit, ad grave dampnum ipsius I. A. Unde dic. quod deteriorat. est & dampnum habet ad valenc. xxxix s. Et inde produc. sectam, &c.

For a Dog biting of a Mare, so that she died.

H. queritur de W. P. de placito transgr. Eo quod cum H. S. prec. x l. adtunc & ibidem invent. verberavit, vulneravit & fugavit, ac cum quodam cane momordit ita quod ratione pred. verberationis, fugationis, vulnerationis, & morsus ejusdem equæ, pred. equa adtunc & ibidem interiit: Et alia enormia ei intulit, ad grave dampnum, &c.

For chasing of Hogs with Dogs, &c.

A. querit. de C. D. de placito transgr. &c. eo quod pred. defend. duos porcos ipsius A. B. apud M. invent. quibusdam canibus fugavit, ita quod ratione inde pred. porci prec. xi s. interierunt. & al. enormia, &c.

For pasturing Sheep in a rotten Pasture, by reason whereof they died.

A. queritur de C. de placito transgr. &c. quod, &c. claus. ipsius A. B. apud L. fregit. & 260 oves ipsius A. B. prec. xl l. ibid. nuper invent. cepit & effugavit eos in quendam insalubr. pastor. infra vill. pred. & ex malitia sua eosdem oves tamdiu detinuit super pastur. pred. quod illi oves insalubritate illius pastur. putrid. & insalubres existent. interierunt & al. enormia, &c.

Trespass.

For digging and ploughing the Plaintiff's Ground, and taking away his Corn.

TS. queritur de G. G. de placito transgr. &c. quod pred. T. G. G. die, anno, &c. claus. ipsius T. S. existent. un. acr. terre arabil. jacent. in B. fregit & intravit, & solum ejusdem Claudi aratro suo effudit & proscidit; & postea, scilicet, die, anno, &c. pred. apud B. pred. & infra jurisdictionem pred. quod pred. G. G. clausum pred. ipsius T. S. fregit & intravit, & Garbas suas, scilicet, duas carectatas avenarum ipsius T. S. ibidem nuper defalcat. ad valenc. xxx s. cepit & asportavit; & al. enormia ei intulit, &c.

For taking away a Post.

AB. queritur de C. D. de placito transgr. &c. quare clausum ipsius A. B. apud F. fregit & quend. nov. postem ipsius A. B. in sol. posit. & affixum, ad valenc. xxx s. cepit & asportavit, & alia enormia, &c.

For eating the Grass, cutting the Hedges, and assaulting the Plaintiff.

AB. &c. queritur de C. D. de placito transgr. &c. quare cum pred. C. D. x die Maii, anno, &c. apud Castrum, &c. in Com. pred. & infra Jurisdictionem hujus Curie clausum ipsius A. B. apud S. fregit & intravit, & herbam suam ad valenc. xxx s. ibidem nuper crescent. cum quibusdam avariis, videlicet, equis, &c. depast. fuit, conculcavit & consumpsit; ac etiam in ipsum A. B. adtunc & ibidem insult. fec. & ipsum verberavit, & male tractavit, ita quod de vita ejus desperabatur; necnon sepes suas ibid. prostravit; & al. enormia, &c. ad grave dampnum ipius A. B. xxxix s. xi d. Et inde producit seftam, &c.

Trespass and Assault.

IH. queritur de I. S. de placito transgr. & insult. &c. Eo quod prod. I. S. die, anno. &c. apud Castrum Ebor. insult. & affraiam fecit in ipsum eundem I. H. ipsum adtunc & ibidem verberavit, & male tractavit, ita quod de vita ejus desperabatur; & al. enormia ei intulit ad grave dampnum ipius I. H. &c. Unde dic. quod deteriorat. est, &c. xxx s. Et inde produc. seftam, &c.

Affault upon one that is under Age.

WE. qui per A. S. proximum amicum suum, ex gratia hujus Curie admissus est ad prosequend. pro predicto W. E. quia infra etatem xxi annorum existit, virtute brevis de Justic. queritur versus T. C. de placito transgr. & insult. &c. Eo quod pred. T. C. die, anno, &c. in & super pred. W. E. insult. & affraiam fecit, &c. ut in alio.

Upon a Replevin.

AB. queritur versus T. L. de placito, quare averia ipsius A. B. cepit, & ea injuste detinuit, contra vad. & pleg. &c. Pro eo quod pred. T. L. die, anno, &c. apud S. &c. in quodam loco ibid. vocat. R. in Com. predicto, &c. Averia ipsius A. B. videlicet, sept. vaccas ad valenc. xxx l. cepit; & ea injuste detinuit, contra vad. & pleg. quousq; &c. Unde predictus A. B. dic. quod deteriorat. est & damn. habet ad valenc. 49 s. Et inde produc. se tam, &c.

Placita Nil debet.

ET. pred. A. B. ven. & defend. vim & injur. quando, &c. & dic. quod pred. I. G. action. suam pred. vers. eum habere non debet, quia dicit quod ipse idem A. B. non debet prefato I. G. pred. xx s. nec aliquem denar. inde, prout pred. I. G. superioris vers. pred. A. B. narravit: & de hoc pon. se super patriam, &c.

Non Assumpfit.

ET. pred. H. B. ven. & defend. vim & injur. quando, &c. & dic. quod ipse non assumpfit super se modo & forma prout pred. T. R. versus eum narravit: Et de hoc ponit se super patriam, &c.

Non Assumpfit infra sex annos.

ET. pred. W. B. ven. & defend. vim & injuriam quando, &c. & dic. quod ipse idem W. B. ad aliquod tempus infra sex annos prox. ante diem impetracionis querelæ pred. T. B. non assumpfit super se modo & forma prout pred. T. B. superioris versus eundem W. B. narravit: Et de hoc ponit se super patriam, &c.

Pleadings.

Ne unques Executor.

ET. pred. E. H. ven. & defend. vim & injur. quando, &c. & dic. quod pred. T. C. actionem suam pred. versus eum habere non debet, quia dic. quod ipse nunquam fuit Executor testamenti & ultimæ voluntatis pred. R. H. nec aliqua bona seu catalla quæ fuer. ejusdem R. H. tempore mortis suæ ut Executor testamenti & ultimæ voluntatis pred. R. H. post mortem ipsius R. H. unquam administravit; & hoc præfat. E. H. parat. est verificare: Unde pet. Judicium si pred. T. C. actionem suam pred. versus eum habere sive manuteneret debeat, &c.

Plene Administravit.

ET. pred. A. M. ven. & defend. vim & injuriam quando, &c. & dic. quod pred. A. B. actionem suam pred. versus eum habere non debet, quia dic. quod ipse plene administravit omnia bona & catalla quæ fuer. pred. T. A. tempore mortis suæ, & quod ipse nulla habet bona & catalla quæ fuer. pred. T. A. tempore mortis suæ in manibus suis administravit. nec habuit tempore intrationis hujus loquel. ipsius A. B. nec unquam postea; & hoc parat. est verificare: unde pet. judicium si pred. A. B. actionem suam pred. versus eum habere debeat, &c.

Replication.

ET. pred. A. B. dic. quod ipse per aliqua præallegat. ab actione sua pred. habend. præcludi non debet, quia dic. quod prefat. M. A. die intrationis hujus loquela, scilicet, die, anno, &c. apud Castrum pred. & infra Jurisdictionem pred. diversa bona & catalla habuit quæ fuer. pred. T. A. tempore mortis suæ in manibus suis administravit, ad valorem debiti pred. unde eidem A. B. de debito pred. satisfecisse potuit; & hoc pet. quod inquiratur per patriam: Et pred. M. A. similiiter, &c.

Non culp.

E T. pred. G. W. ven. & defend. injur. quando, &c. & dic. quod ipse in nullo est culpabilis de transgr. pred. prout pred. I. C. superiorius versus eum narravit: Et de hoc pon. se super patriam, &c.

Solvit

Solvit & Release.

ET pred. I. S. ven. & defend. vim & injuriam quando, &c. Et dic. quod pred. I. W. actionem suam predictam versus prefat. I. S. habere non debet, quia dic. quod pred. I. W. post confessionem ejusdem billae, & ante inceptionem hujus sectae, videlicet, die, anno, &c. apud Castrum, &c. per quoddam script. suum, &c. cognovit & confessus est se fore plenar. satisfact. & content. de pred. summa C. s. in bolla predicta mentionat. & inde acquietavit & relaxavit eundem I. S. de & ab omnibus actionibus quas pred. I. W. versus eundem I. S. ratione confession. billae pred. habere potuit; & hoc parat. est verificare; unde pet. judic. si pred. I. W. actionem suam pred. versus eum habere debet, &c.

Liberum tenementum.

ET pred. H. S. ven. & defend. injur. quando, &c. Et dic. quod predictus W. B. actionem suam pred. versus eum habere sive manutenere non debet, quia dic. quod clausum pred. voc. T. apud E. in narratione superius mentionat, in quo transgr. pred. suppon. fieri, est & predicto tempore quo supponitur transgr. pred. fieri, fuit solum & liberum tenementum ipsius H. S. per quod pred. H. S. fregit, & intravit in claus. pred. voc. T. & blada & herbam ibidem crescent. & existent. pedibus ambulando concalcavit & consumpsit ac al. blada, herb. & fen. in clauso pred. existent. cum equis, bobus & vaccis depast. fuit, concalcavit & consumpsit transgr. predict. prout in narratione predicta superius specificat. continuand. prout ei bene licuit; & hoc parat. est verificare; unde pet. judic. si pred. W. B. actionem suam pred. versus eum habere debet, &c.

Plea al. Jurisdiction.

ETI pred. G. F. in propria persona sua ven. & dic. quod Curia hic in querela predicta versus eum procedere non debet, quia dicit quod actio pred. est placit. ad reddend. comput. &c. Unde pred. G. F. pet. judic. si ista Cur. placit. pred. cognoscere velit, &c.

Judgment Arrest.

ET pred. R. M. dic. quod veredict. pred. versus eum redit. ex parte prefat. M. S. existere vel prosecuti non debet, quia dic. quod narratio predicta & materia in ea content. insufficiens est in lege ad actionem pred. versus eum dand. sive manutenend. Unde pet. judicium, & quod loquela & veredict. predict. quassat. sicut & pro nullo habeantur, & quod predict. querens nihil recipiat per loquel. suam & veredict. supradict. &c.

ETPred. W. G. ven. & def. vnde & injur. quando. &c. & pet. audit. scripti pred. & ei legitur, &c. pet. etiam audit. conditionis ejusdem scripti & ei legitur in hæc verba. (videlicet) *The Condition of this Obligation (recite all the Condition)* quibus lectis & audit. idem W. G. dic. quod pred. C. G. actionem suam pred. versus eum habere non debet, quia dic. quod artic. in condition. pred. superius mentionat. fac. fuer. apud V. in. &c. die, anno. &c. pred. inter eundem C. G. de A. in dicto Com. gen. ex una parte, & pred. W. G. per nomen W. G. de eisdem VIII. & Comitat. *Yeoman*, ex altera parte, cuius quidem alteram partem signat. cum sigill. ejusdem C. G. pred. W. G. pred. hic in Curia profert, cuius dat. est eodem die & anno, *Imprimis*, (*recite all the Articles throughout*) & prefat. W. G. dic. quod ipse performavit & servavit omnia & singula conventiones, confessiones, articulos, clausas, sentenc. & agreement. quæcunq; in articulis pred. specificat. ex parte sua observand. performand. comprehend. & servand. secundum formam & effectum eorundem Articulorum; & hoc parat. est verificare: unpet. judicium, si pred. C. G. actionem suam pred. versus eum habere debeat, &c.

Replicatio.

ETPred. C. G. dic. quod ipse per aliqua præallegat. ab actione sua pred. habend. versus prefat. W. G. præcludi non debet, quia protestando quod ipse idem W. G. non performavit sive servavit aliqua conventiones, concession. articulos, clausas, sentenc. vel agreement. in articulis pred. specificat. ex parte sua performand. & servand. prout pred. W. G. placitando superius allegavit, pro placito, pred. C. G. dic. quod pred. W. G. non, &c. (*recite the Breach*) secundum formam & effectum eorund. articulorum. Et hoc parat. est verificare: unde pet.

pet. judicium, & debit. suum pred. una cum dampnis suis occasione detentionis debiti illius, sibi adjudicari. &c.

Rejoinder.

ET. pred. W. G. dic. quod ipse (*recite here what he did perform the Breach which the Plaintiff assigned*) secund. vim & effectum dictorum articulorum; & de hoc pon. se super patriam: Et pred. C. G. similiter, &c.

Nil detinet.

ET. pred. R. S. ven. & defend. vlm & injuriam, quando, &c. & dic. quod ipse catalla pred. prefat. R. L. non detinet, neq; aliquam parcell. in modo prout pred. R. L. superius vers. eum narravit; & de hoc pon. se super patriam, &c.

Bar per Acquittance.

Quando, &c. actionem suam habere non debet, &c. quia dic. quod post confectionem scripti pred. (scilicet) die, anno, &c. querens per quandam billam suam acquietanc. quam dict. defendens sigillo querentis signat. hic in Cur. profert, cuius dat. est eidem die & anno acquietavit & exoneravit ipsum eundem defendantem per nomen, &c. de omnibus actionibus, placitis, demand. debitis, computis & litibus a principio mundi usque diem dat. ejusdem billz; & hoc, &c. si judicium, &c.

Replicatio.

Querens dic. quod præcludi non debet, &c. quia dic. pred. billa acquietanc. non est factum suum; Et hoc pet. &c.

Justification de Slander.

ET. &c. quando, &c. Et dic. quod. pred. G. L. actionem suam pred. versus eum habere non debet, quia dic. quod ante dictio. scandalosorum verborum pretensi. in narratione pred. mentionat. (videlicet) die, anno, &c. apud, &c. pred. G. L. un. vervecem, anglice a *Weather-sheep*, ad valenc. x s. &c. de bonis & catallis ipsius H. A. in narratione pred. mentionat. adiunc & ibidem invent. felonice furavit, cepit & asportavit. contra pacem Dom. Regis, nunc, &c. prætextu. cuius predictus

dicitus F. G. postea, scilicet, die, anno, &c. apud, &c. scandala verba pretensi. in narration. pred. mentionat, dixit, affirmavit & declaravit eidem L. G. videlicet, *Thou* (prefat. L. G. innuend.) art a *Thief*, and stole H. A's *Sheep*: Et hoc parat. est verificare; unde pet. judicium, si pred. L. G. action. pred. inde versus cum habere debet, &c.

Tender amends in Replevin.

ET. pred. H. dic. &c. iust. caption. &c. advocare non debet, quia dic. quod post tempus pred. caption. aterior. pred. in loco pred. in quo, &c. & ante diem emanationis præcept. de replegari. ipius H. scilicet, die, anno, &c. predict. apud W. pred. prefat. H. obtulit xii d. ad solvend. eisdem W. & I. ad usum ejusdem W. pro damphis ipsius W. que sustinuit occasione transgr. pred. quam averia predicta in predictis duabus acris terræ fecer. qui quidem xii d. fuer. suffic. emend. pro transgr. pred. quam averia pred. in predictis duabus acris terræ fecer. quos quidem xii d. pred. W. & I. adtunc & ibidem de eodem H. recipere penitus recusat: & hoc, &c.

Solvit to part, and Tender to other Part.

ET. &c. quando, &c. & dic. quod pred. I. G. actionem suam pred. versus cum habere seu manutenere non debet, quia quoad xx s. parcellæ, &c. idem I. dic. quod prefat. I. A. die, anno, &c. ante inception. hujus actionis bene & fideliter solvit eidem I. G. xx s. part. supra mentionat. debit. in narratione predicta specificat. videlicet, apud B. pred. & infra Jurisdiction, hujus Cur. Et quoad quinq; solid. & sex denar. resid. debiti, in narratione pred. specificat. idem I. A. ulterius dic. quod ipse postea, scilicet, die, anno, &c. pred. ante inceptionum hujus actionis apud B. pred. obtulit eidem I. G. pred. quinque solid. & sex denar. quos quidem quinq; solid. & sex denar. idem I. G. adtunc & ibidem acceptare recusavit: Et hoc prefat. I. A. parat. est verificare, & pet. judic. Cur. si pred. I. G. actionem suam predictam versus cum habere debet, &c.

Replication.

ET. pred. I. G. quoad platum prefat. I. A. quoad pred. xx s. parcell. debiti pred. dic. quod ipse per aliqua præallegat. ab actione sua pred. versus cum habend. præcludi non debet, quia die, quod pred. I. A. non solvit pred. xx s. eidem I. G.

I. G. prout pred. **I. A.** superius allegavit ; & hoc pet. quod inquiratur per patriam : & pred. **I. A.** similiter, &c.

Et quoad pred. placit. ejusdem **I. A.** quod pred. quinq; so- Demur to lid. & sex denar. resid. debiti predicti pred. **I. G.** dic. quod the other pred. placitum ejusdem **I. A.** modo & forma pred. placitat. & Plea. mater. in eodem content. non est sufficiens in lege ab actione sua pred. versus eundem **I. A.** habend. precludend. Et quod placito pred. modo & forma pred. placitat. necesse non habet, neque tenetur per legem respondere ; unde pro defectu sufficien. responsionis in hac parte, pred. **I. G.** pet. judicium, & pred. **I. s. 6 d.** resid. debiti sui pred. una cum dampnis suis, occasione detentionis debiti illius sibi adjudicari, &c.

Non est factum.

ET. &c quando, &c. Et dic. quod ipse de debito pred. virtute scripti pred. onerari non debet, quia dic. quod script. pred. non est factum suum ; Et de hoc pon. se super patriam, & pred. **A.** similiter, &c.

Per minas.

ET. &c quando, &c. Et dic. quod pred. **A.** actionem suam pred. versus eum habere non debet quia dic. quod pred. **A.** tempore confectionis script. pred. apud **N.** pred. eidem **B.** tales & tantas minas de vita sua, & mutilatione membrorum suorum sibi inferend. imposuit, nisi ipse script. pred. prefat. **A.** facere & signare vellet, quod idem **B.** script. illud. ob. met. minar. illar. prefat. **A.** adtunc & ibidem fecit ; Et hoc parat. est verificare : unde pet. judicium si pred. **A.** actionem suam pred. virtute scripti pred. versus eum habere debeat, &c.

Replication.

ET. pred. **A.** dic. quod ipse per aliqua preallegat. ab actione sua pred. habend. precludi non debet, quia dic. quod pred. **A.** tempore confectionis scripti pred. fuit sui juris ad largum, & scriptum illud ex mera & spontan. voluntate sua prefat. **A.** fecit, & non ob metum minarum prout pred. **R.** placitando allegavit, Et hoc pet. quod inquiratur per patriam : & pred. **B.** similiter, &c.

Per

Per Dureffe.

ET, &c. quando, &c. Et dic. &c. quia dic. quod tempore confectionis scripti pred. fuit per eundem A. & al. de covina sua, videlicet, apud N. pred. & ibid. in persona detent. quousq; idem B. per vim & duritatem imprisonment. illius scripti. illud adtunc & ibidem eidem A. fecerat; Et hoc parat. est verificare; unde pet. judicium, &c.

Replicatio.

ET pred. A. dic. quod ipse, &c. quia dic. quod pred. B. tempore confectionis scripti pred. fuit sui juris ad largum, & extra quamlibet prison. & scripti. illud ex mera & spontanea voluntate sua eidem A. fecit, & non per vim & duritatem imprisonment. prout prefat. B. superius allegavit: Et hoc pet. quod inquiratur per patriam: Et pred. B. similiter, &c.

De son assault demesne.

E T, &c. quando, &c. Et quoad transgr. & insult. pred. actionem suam pred. versus eum habere non debet, quia dic. quod pred. R. W. die, anno, &c. pred. in ipsum I. R. apud Castrum, &c. insult. fec. & ipsum verberasse, vulnerasse, & male tractasse voluit, per quod idem I. R. seipsum erga prefat. R. W. adtunc & ibidem defendebat: & dic. quod dampnum & malum si quod eidem R. W. adtunc & ibidem evenit, hoc fuit de insult. ipsius R. W. propr. & in defensione ipsum I. R. Et hoc parat. est verificare; unde pet. judic. si pred. R. W. actionem suam pred. versus eum habere debeat, &c.

Repliç.

E T pred. R. W. dic. quod ipse per aliqua praæallegat. ab a^gione sua pred. habendi. praæcludi non debet, quia dic. quod pred. I. R. die, anno, &c. supradict. apud, &c. in narratione sua pred. superius specificat. vi & armis, &c. de injuria sua propria & absq; causa per prefat. I. R. superius allegat. in ipsum R. W. insult. fec. & ipsum verberavit, vulneravit, & male tractavit: Ita quod de vita ejus desperabatur, contra pacem Domini Regis nunc: prout idem R. W. superius versus eum queritur: Et hoc pet. quod inquiratur per patriam, & pred. I. R. similiter; Ideo, &c.

Quod

Quod quer. est infra etatem, & debuit prosecuti per proximum amicum.

ET quando, &c. Et dic. quod pred. I. R. actionem suam pred. versus eum habere non debet, quia dic. quod pred. I. R. die & anno in narratione specificat scilicet, die, anno. &c. & die emanationis brevis de Justic. ipsius I. R. scilicet die, anno, &c. fuit infra etatem viginti & unius annorum; Et quod pred. I. R. versus eundem P. G. narravit in loquela pred. per Attorn. suum, cum per debit. form. Legis narrasse debuit per proximum amicum suum; Et hoc parat. est verificare; unde pet. judicium si pred. I. R. actionem suam pred. versus eum habere debeat, &c.

Non cul. ad partem, and tender amends ad al. partem.

ET, &c. quando, &c. Et quoad fraction. Clausi pred. ac etiam quoad conculation. bladarum & herbarum pred. pedibus ambuland. in eisdem quatuor acr. terr. pred. de novo assignat. superius fieri supposit. dic. quod ipse in nullo est culpabilis, &c. Et de hoc pon. se super patriam, & querens similiter. Et quoad resid. transgr. pred. in eisdem quatuor acris terr. de novo assig. superius fieri supposit. idem A. dic. quod pred. B. actionem suam predictam habere non debet, quia dic. quod resid. transgr. pred. in eisdem quatuor acr. terr. de novo assignat. superius fieri supposit. fuit fac. cum averiis predictis per negligentiam, & contra voluntatem ejusdem A. Et quod idem A. postea & ante inception. hujus actionis ipsius B. scilicet, 16 die Maii, anno, &c. apud eandem Parochiam de R. in dicto Com. Ebor. eidem B. obtulit xx s. legalis monet. Angl. pro & in satisfaction. resid. transgr. pred. sicut præfertur fact. qui quidem xx s. sufficien. emend. fuer. pro eodem resid. transgr. pred. in eisdem quatuor acr. terr. cum pertinen. de novo assignat. ut præfertur fac. Et quod pred. B. pred. xx s. sicut præfertur oblat. de eodem A. recipere adiunc & ibidem penitus recusavit; Et hoc parat. est verificare; unde, &c.

Replie.

ET. pred. B. quoad placit. pred. ipsius A. quoad dict. resid. transgr. pred. in eisdem quatuor acris terr. cum pertin. de novo assignat. fact. dic. quod ipse per aliqua in eodem plato præallegat. ab actione sua pred. inde versus eum habend. præcludi non debet, quia protestand. quod pred. resid. transgr. pred.

pred. in eisdem quatuor acr. terr. cum pertin. de novo assign. non fuit fact. averis pred. per negligentiam & contra voluntatem ejusdem A. protestando etiam quod pred. xx s. in satisfactione transgr. pred. non oblat. fuer. ante eundem diem inception. sc̄t̄a ejusdem B. prout prefat. A. superius allegavit, pro placito idem B. dic. quod pred. xx s. oblat. fuer. per tund. A. eidem B. pro quadam transgr. per eundem A. cum averis pred. ejusdem B. in quodam al. Glaas. terr. cum pertin. vocat. le S. ipsius B. in Paroch. de R. pred. in Com. pred. fact. absq; hoc quod idem A. obtulit eidem B. pred. xx s. pro & in satisfactione pred. resid. transgr. pred. in eisdem quatuor acris terr. de novo assign. fact. prout idem A. superius allegavit; Et hoc parat est verificare; unde quia idem A. pred. resid. transgr. pred. in eisdem quatuor acr. terr. cum pertinen. pred. de novo assign. fact. superius cognovit: idem B. pet. judicium, & damage sua occasione resid. transgr. pred. sibi adjudicari.

Rejoinder.

ET. pred. A. ut prius dic. quod ipse obtulit eidem B. pred. xx s. pro satisfactione. ejusdem resid. transgr. pred. in pred. quatuor acr. terr. cum pertinen. de novo assign. fact. prout ipse superius allegavit; Et de hoc pon. se super patriam; Et pred. B. similiter: Ideo, &c.

Abatement per misnomer.

ET. pred. A. per Simon Doo Attorn. suum ven. & pet. Judic. de brevi de Justic. pred. quia dic. quod nomen baptismi. ejusdem Agnet. in brevi pred. nominat. est Anna & non Agnet. prout pred. B. superius narravit; Et hoc parat est verificare; unde pet. judicium de pred. brevi de Justic. Et quod pred. breve de Justic. quassetur.

Abatement pur variance enter brief & Count.

ET. pred. A. per I. R. Attorn. suum ven. & pet. Judic. de brevi de Justic. pred. quia dic. quod ipse est eadem persona versus quem pred. B. protulit breve suum pred. per nomen B. D. alias E. Yeoman, & per idem nomen B. D. alias E. die impetrationis brevis de Justic. ipsius B. & semper postea hucusque cognit. & vocat. fuit & per idem nomen B. D. alias E. versus eundem A. in narratione sua pred. nunc declaravit; absq; hoc quod idem B nominatur sive vocatur Johannes alias Henricus, vel per idem nomen B. D. alias E. ullo tempore cognit. vel vocat. Et hoc parat est verificare; unde pet. judicium de brevi de Justic. pred. &c.

Innholder plead al. Trouver que il detaine un cbival pour ses Victuals.

ET pred. A. per A. B. Attorn. suum, &c. adiutorio non quia dic. quod ipse eodem tempore quo pred. Equus in narratione pred specificat. ad man. suas venire supponit. & per duos annos tunc ult. claps. & semper postea fuit, & adhuc existit communis Hospitator, & tenet quoddam commune Hospitium voc. le George in Paroch. & Vill. de Harwood, in dicto Com. Ebor. ac infra, &c. & quod quidam C. D. xii die Augusti, anno pred. apud Paroch. & Vill. de H. pred. ad commune Hospitium ipsius A. ven. secum ducend. equum pred. in Hospitium pred. quem quidem equum pred. C. D. eodem xii die Augusti supradict. usq; xxiv diem Junii, anno, &c. supradict. in Hospitio ejusdem A. ad pastum reliquit, & quod pred. pastus ipsius A. depast. & consumpt. infra idem Hospitium per eundem equum inter pred. xii diem Augusti anno, &c. & pred. xxiv diem Junii anno supradicto, valebat octo libr. & decem solid. legalis moneta Angliae: Et quod nemo infra tempus illud solvit prefat. A. pro pastu pred. neq; pro eodem cum pred. A. composuit sive agreavit; unde quidam L. M. N. O. ac al. legales & probi honesti vicin. ipsius A. & inhabitan. & remanen. infra dictam Paroch. de H. in Com. pred. ad requisitionem ipsius A. postea scilicet xxiv die Junii, supradict. apud Vill. & Paroch. de H. rationabilit. appreciarunt Equum pred. ad sex libr. & decem solid. & nil amplius; unde idem A. postea, scilicet, pred. xxiv die Junii, anno pred. apud Paroch. de H. pred. eundem Equum in manibus suis retinuit erga satisfactionem ejusdem A. pro pastu pred. & equum ill. ad usum A. propri. adtunc & ibidem convertit & disposuit prout ei bene licuit; Et hoc parat. est verificare; unde pet. judic. si querens actionem, &c.

This may be also given in Evidence.

Placitum licentiae.

ET pred. A. quoad transgr. pred. quoad fraction. Clausi pred. & depast. &c. cum averis, &c. & conculcation. &c. pedibus suis superius fieri supposit. dic. quod idem B. ante tempus illud quo, &c. scilicet, xx die Maii, anno, &c. apud Skipton pred. in Com. pred. & infra Jurisdictionem hujus Curiae licentiam dedit ejdem A. in tenementa pred. cum pertin. (de novo assign.) intrare, & imponere averia pred. & herbam in tenementa pred. cum pertin. (de novo assign.) adiung. & ibidem crescen. depascend. virtute cuius licen. idem defend.

fend. eodem tempore quo, &c. in tenementa pred. cum pertin. in quibus, &c. intravit, & averia sua pred. ad herbam depascend. ibidem imposuit, & eadem averia eodem tempore quo, &c. virtute licen. pred. herbam pred. in tenementa pred. cum pertin. depast. fuer. conculcaver. & consumpsit. quæ quidem fractio clausi pred. & depast. conculcat. & consumptio herbae pred. cum averiis pred. in tenementis pred. cum pertin. superius de novo assign. & conculcatio & consumptio al. herbae pred. in eisdem tenementis pedibus ambulando virtute licent. pred. & pro causa pred. in forma sicut prefertur fact. est eadem fractio Claudi, &c. Et hoc, &c.

The Plaintiff replies, De injuria propria, and traverseth the Liberty; and the Defendant justifies he gave the Liberty, and Issue thereupon.

Avowry pro redditus.

ET. pred. A. B per S. D. Attorn. suum ven. & defend. viii & injuriam quando, &c. & bene advoc. caption. avérior. pred. in pred. loco quo, &c. & juste, &c. quia dic. quod pred. locus in quo, &c. est & tempore captionis pred. & ante fuit quatuor. acr. terr. in M. pred. & dic. quod diu ante tempus captionis pred. superius fieri supposit. ac eodem tempore pred. A. B. fuit sejst. in Dominico suo ut de Feodo, de un. mess. un. gardin. & quatuor acris terr. & un. acr. bosc. cum pertin. in M. pred. de quibus idem locus in quo, &c. est & pred. tempore quo, &c. fuit parcel. & sic inde existen. sejst. eadem Messuag. Gardin. terr. & Bosc. cum pertin. diu ante temp. caption. pred. scilicet, ad Festum annuntiationis beatæ Mariæ virginis, anno, &c. apud M. pred. eidem C. D. dimisit habend. sibi a Feslo pred. tamdiu eidem A. B. placuerit, redd. inde annuatim eidem A. B. (tamdiu prefat. C. D. haberet & occuparet pred. Messuag. Gardin. terr. & Bosc.) xxx s. ad Festum Sandi Mich. Archang. & Annuntiation. beatæ Mariæ virginis, per equal. portion. annuatim solvend. virtute cuius dimissionis pred. C. D. pred. Messuag. Gardin. terr. & Bosc. cum pertin. a pred. Festo annuntiationis, &c. usq; ad Festum annuntiationis, &c. proxim. ante tempus caption. pred. habebat & occupaverat; Et quia xxx s. de redditu pred. virtute ejusdem dimissionis per tempus pred. eidem A. B. tempore captionis pred. in arrerag. remanser. & adhuc remanent insolut. idem A. B. bene advoc. caption. averiorum pred. in dicto loco in quo &c. & juste, &c. nomine distinctionis, &c. Et hoc parat. est verificare; unde pet. judicium, & return. averior. pred. sibi adjudicari, &c.

Bar in Trespass, that the Goods were delivered as a Pawn.

ET. pred. A. B. per, &c. ven. & defend. vim & injuriam quando, &c. Et quoad fraction. Clausi. &c. in nullo est inde culpabilis, & de hoc, &c. & quoad resid. transgr. pred. superius fieri supposit. idem A. B. dic. quod pred. C. D. actionem suam pred. habere non debet, &c. quia dic. quod idem C. D. diu ante pred. tempus quo, &c. eidem A. B. indebitat. fuit in xxii s. pro diversis denar. summis per eundem C. D. de pred. A. B. mutuat. & postea, & diu ante tempus pred. quo, &c. idem C. D. apud, &c. eidem A. B. bona & catalla pred. deliberavit tanquam pignus pro pred. xxii s. tenend. eidem A. B. ut pignus quousq; pred. C. D. prefat. A. B. eosdem xxii s. solvisset. Et idem A. B. in facto die, quod prefat. C. D. pred. xxii s. eidem A. B. nondum solvit, quod est eadem transgr. & captio & asportatio honor. & catall. pred. unde pred. C. D. superius modo queritur; Et hoc, &c. Unde, &c.

Replie.

ET. pred. C. D. dic. quod ipse per aliqua preallegat. ab actione sua pred. habend. precludi non debet, quia dic. quod prefat. A. B. de injuria sua propria, & absq; aliqua tali causa per ipsum eundem A. B. preallegat. die & anno pred. bona & catalla pred. apud R. in dicto Com. Ebor. invent. cepit & asportavit, prout pred. C. D. in narratione sua pred. superius supposit. Et hoc pet. quod inquiratur per patriam; Ec pred. A. B. similiter. Ideo, &c.

Concord plead.

ET. pred. A. B. in propria persona sua ven. & defendit vim & injuriam, quando, &c. Et quoad transgr. pred. superius fieri supposit. idem A. B. dic. quod pred. C. D. actionem suam pred. versus eum habere non debet, quia dic. quod postquam transgr. pred. fieri supposit. fact. fuit scilicet octavo die Julii, anno, &c. pred. apud S. pred. in Com. pred. & infra Jurisdiction. istius Curiae iidem A. B. & C. D per mediation. E. F. & G. H. amicorum & familiar. suorum, inter eos amicabiliter interveniend. talis habebatur concordia inter eos, viz. quod idem A. B. v. s. legalis monete Anglia eidem C. D. pro emend. & satisfaction. ejusdem transgr. solveret; quos quidem v. s. &c. idem A. B. prefat. C. D. adiunge & ibi

Pleadings.

dem solvit, secundum vim, formam & effectum concord, pred.
Et hoc, &c. Unde pet. judic, &c.

Replic.

ET. pred. C. D. dic quod ipse per aliqua preallegat, ab
actione sua pred. habend. præcludi non debet, quia dic.
quod nunquam habeatur aliqua talis concord. sive agreement.
inter ipsos C. D. & A. B. qualis pred. A. B. superioris placitan-
do allegavit. Et hoc pet. quod inquiratur per patriam; Et
pred. A. B. similiter, &c.

Avowry pour Heriot.

ET. pred. C. D. per, &c. ven. & defend. injur. quando,
&c. Et bene advoc. caption. ejusdem bovis in dicto loco
quo, &c. & juste, quia dic. quod durante caption. ejusdem
bovis superioris supposit. quidam I. G. de un. messuag. cum pertin.
in W. pred. fuit. seisit. in Dominico suo ut de Feod. & sic
inde seisit. idem I. G. illud tenuit de pred. C. D. per fidelit.
& redd. xii d. eidem C. D. annuatim ad Festum Annunciat.
beate Mariae virginis, &c. & Sancti Mich. Archang. per
equal. portion. solvend. ac etiam per servic. quod unulquisq;
tenant. ejusdem messuag. cum pertin. de eodem in Dominico
suo ut de Feodo seisit. vel in usu a tempore cuius contrarii me-
moria hom. non existit debuit & consuet. fuisse eidem C. D.
& hæred. suis optim. animal ejusdem tenentis dict. messuag.
cum pertin. sic decadend. inde seisit. in Dominico suo ut de Feo-
do vel in usu, per nomen Heriotti reddere; de quibus servic.
pred. C. D. fuit seisit. per man. ipsius I. G. tanquam per man.
veri tenentis ejus, videlicet, de pred. fidelitat. ut de Feodo &
jure, & de pred. redd. in Dominico ut de Feodo: & postea
idem I. G. de pred. messuag. cum pertinen. seisit. in Dominico
suo ut de Feodo obiit, & quia pred. Bos fuit Bos propr. ejusdem
I. G. tempore mortis sue, idem C. D. tanquam optimum ani-
mal quod fuit ipsius I. G. tempore mortis sue per nomen He-
riot. cepit & justit, &c.

Bar for Default of the Plaintiff's Fences.

ETT. pred. A. & B. per I. R. Attorn. suum ven. & defend.
injur. quando, &c. Et quoad fraction. Clausi pred. & de-
past. conculeation. & consumptien. herb. pred. idem A. & B.
dicunt quod pred. D. action. suam pred. versus eos habere non
debet, quia dicant quod idem A. & B. tempore transgr. pred.
fieri supposit. fuer. & adhuc existunt seisit. de quodam Claudio
pastur. prox. adjacen. eidem Claudio ipsius D. in quo, &c. in S.
pred.

pred. in Dominico suo ut de Feodo, inter quæ quidem Clausa quædam est sepes separan. quenque ab al. pred. Clausis, quam quidem sepem pred. D. & omnes illi quorum statum ipse idem D. tunc habuit in Claudio pred. a tempore cuius contrarii memoria homin. non existit, facere, reparare & manuteneri usi fuer. & dicunt quod sepes illa pro defectu reparation. & manu-
tention. ejusdem fuit tempore transgr. pred. fieri supposit. rupe,
& prostrat. & quod averia pred. A. & B. in eorum Clausis
pred. ad depascend. posit. in pred. Clausi ipsius D. per rupt.
& decass. ejusdem sepis, contra voluntat. cornadem A. & B.
intraver. & herbam pred. depast. fuer. conculcaver. & con-
sumper. & idem A. & B. averia sua pred. recente prole-
guen. in eundem Clausi ipsius D. perrupt. & decass. pred. ad a-
veria sua in eundem Clausi ipsior. A. & B. refugand. intraver.
ac in Clausis illis coheriter fugaver. prout eis bene licuit, quod
est eadem transgr. & fractio Clausi, & eadem depast. concul-
catio & consumptio herbae pred. unde pred. D. superius ver-
sus eos queritur: Et hoc parat. sunt verificare, &c.

Replication.

ET. pred. D. dicit, quod ipse per aliqua priallegata ab
actione sua pred. versus eisdem A. & B. habend. preclu-
di non debet, quia dicit quod pred. A. & B. de injuria sua pro-
pria Clausum pred. vocat. B. in quo, &c. freger. & herbam
pred. cum averiis pred. depast. fuer. conculcaver. & con-
sumper. prout idem D. superius versus eos inde queritur absque
hoc quod ipse idem D. & omnes illi quorum statum ipse pred.
D. tunc habuit in Claudio predicto a tempore cuius contrarii
memoria hominum non existit sepem pred. facere reparare &
manuteneri usi fuer. prout pred. A. & B. superius placitando
allegaver. Et hoc parat. est verificare unde petit Judicium &
dampna sua occasione transgr. pred. sibi adjudicari, &c.

Rejoinder.

ET. pred. A. & B. ut prius dicunt quod pred. D. & omnes
illi quorum statum ipse pred. D. tunc habuit in Claudio
pred. a tempore cuius contrarii memoria hominum non existit
sepem pred. facere reparare & manuteneri usi fuerunt prout
iphi superius placitando allegaverunt. Et de hoc ponunt se super
patriam. Et pred. D. similiter, &c.

Averiory for Damage Feasant.

ET pred. A. per, &c. ven. & defend. injur. quando, &c. & bene advot. caption. vaccarum pred. in dicto loco quo, &c. & iuste, &c. quia dic. quod seifitus est, ac tempore captionis pred. seifitus fuit de un. messuag. & xii acr. terr. cum pertin. in dicta Villa de S. de quibus locus in quo pred. vacc. capt. fuit. est parcell. in Dominico suo ut de Feodo; Et quia ipse tempore caption. pred. vaccas pred. in loco pred. quo, &c. damn. faciend. invenit, pred. A. easdem vaccas in sol. & libero tenemento suo damnum ibidem sic faciend. cepit prout ei bene licuit; & hor parat. est verificare, unde pet. judicium, & return. averiorum pred. &c.

Misnomer in the Writ of Justices.

ET super hoc ven. Alvered Pease per W. O. Attorn. suum & dic. quod ipse virtute ejusdem brevis de Justic. existens. per nomen Abraham Pease, nec est neq; intelligi potest esse eandem personam versus quam pred. E. protulit breve suum per nomen Abraham Pease, quia dic. ipse nominatur & vocatur Alvered Pease, & per idem nomen & cognomen a tempore nativitatis sue semper cognit. & vocat. absq; hoc quod nominatur sive vocatur Abraham Pease, aut per idem nomen & cognomen unquam cognit. vel vocat. prout per breve illud supponit. Et hoc pred. Alvered parat. est verificare; unde petit judicium pred. brev. & quod idem breve quassetur, &c.

Non cepit.

ET pred. B. per S. H. Attorn. suum ven. & defend. vim & injuriam quando, &c. Et dic. quod ipse non cepit averia pred. prout pred. A. superius versus eum querit. Et de hoc pon. se super patriam, & pred. A. similiter, &c.

Bar in repleg. per Property.

ET pred. B. per S. T. Attorn. suum ven. & defend. vim & injuriam quando, &c. Et dic. quod propriet. averiorum pred. tempore supposit. eorum captionis in pred. B. fuit, & non in prefat. A. Et hoc parat. est verificare; unde pet. judicium, &c.

Demurrer ad narr.

ET pred. B. per C. D. Attorn. suum ven. & defend. vim & injuriam quando, &c. Et dic. quod narratio ipsius P. & mater. in ea content. minus sufficien. in lege existunt pro pred. P. actionem suam pred. habend. versus eum manutenere: Et quod eidem narrationi modo & forma pred. fact. idem B. necesse non habet, neque per legem terræ tenetur respondere: Et pro causis morte in lege in hac parte, pred. B. secundum formam Statuti in hac parte provis. ostendit Cur. hic causas sequent. videlicet, quod narratio in se continet dupl. & insufficien. materiam & forma caret. Et hoc parat. est verificare; unde pro defectu narrationis sufficien. in hac parte idem B. pet. judic. Et quod pred. P. ab actione sua versus cum habend. precludatur, &c.

Joiner in Demurrer.

ET pred. P. dic. quod ipse superius narrand. in narratione sua pred. allegavit materiam in lege sufficien. actionem suam pred. habend. versus eund. B. manutenere: Et hoc parat. est verificare: quam materiam pred. B. non dedicit, nec ei aliquid respondit, sed omnino recusat verificationem illam admittere; unde pet. judicium, & debit. suum pred. una cum damnis occasione detentionis debiti illius sibi adjudicari.

Si in transgr. sic.

PET. judic. & damna sua ratione ejusd. transgr. vel transgr. & insult. vel transgr. insult. & imprisonment. (*as the Case is*) sibi adjudicari, &c.

In Case.

PET. judicium & damna sua occasione superius specificat. sibi adjudicari, &c.

Et pred. A. per I. S. Attorn. suum ven. Et dicit quod pred. T. ad breve & narration. sua pred. respondere non debet, quia Outlawry dicit quod pred. T. primo die Maii, anno regni dicti Domini pleaded in Regis nunc nono per nomen S. T. nuper de Castr. Ebor. Teo- Abatement.

Pleadings.

man, utlagat. fuit & adhuc existit ad sectam cuiusdam A. B. de placito transgr. super casum, unde idem T. convict. est prout per Record. utlagar. pred. in Cur. hic scilicet apud Westm. in Com. Midd. residen. liquet manifeste, & hoc parat. est verificare per Record. ill. unde petit judicium si pred. T. ad breve & narration. sua pred. respondere debeat, &c.

Payment
to a Bond
pleaded.

Et pred. I. per A. B. Attorn. suum venit & defendit vim & injuriam quando, &c. Et petit auditum scripti pred. Et ei legitur, &c. petit etiam auditum Conditionis ejusdem scripti. Et ei legitur in hæc verba, scilicet, *The Condition, &c. (reciting the Condition)* Quibus lexis & auditis idem I. dicit quod pred. T. actionem suam pred. versus eum habere non debet, quia dicit quod ipse idem I. solvit prefat. T. pred. 10 l. super pred. festum, &c. in conditione pred. superius specificat. quas ipse & prefat. C. D. vel eorum alter eidem T. ad in vel super eundem diem soluisse debuer. vel debuit secundum formam & effectum Conditionis illius videlicet apud domum mansional. pred. T. scituat. in B. pred. in Com. pred. Et hoc parat. est verificare, unde petit Judicium, &c.

Note. That this was the old Form, but now since per 4 A. Payment may be pleaded, though not strictly made; it must be pleaded accordingly, or it will be an immaterial Issue.

Et pred. T. dicit, quod ipse per aliqua preallegat. ab actione sua pred. habend. precludi non debet, quia dicit quod pred. I. non solvit eidem T. Super pred. festum, &c. in conditione pred. superius specificat. pred. 10 l. quas ipse & prefat. C. D. vel eorum alter, &c.

Plea no
Award.

Et pred. A. per I. H. Attorn. suum venit & defendit vim & injuriam quando, &c. Et petit auditum scripti pred. Et ei legitur, &c. petit etiam auditum conditionis ejusdem scripti, & ei legitur in hæc verba, *The Condition, &c.* Quibus lexis & auditis eadem A. dicit quod pred. E. actionem suam pred. versus eam habere non debet, quia dic. quod. pred. I. B. arbitrator in conditione pred. superius nominat. non fecit aliquod arbitrium inter pred. E. & pred. R. H. in scripto obligator. pred. & in conditione ejusdem nominat. secundum formam & effectum conditionis illius. Et hoc parat. est, &c.

Replica-
tion and
the Breach.

Et pred. E. dicit quod ipse per aliqua, &c. precludi non debet, quia dicit quod pred. I. B. post confectionem scripti pred. & ante pred. extum diem Junii in Conditione scripti pred.

pred. mentionat. scilicet primo die Junii, anno regni dict. Domini Regis nunc duodecimo supradicto apud Civitatem. E. pred. accepto super se onere arbitrandi ordinandi & adjudicandi inter pred. E. & prefat. R. H. in vita sua de & super premissis in pred. Conditione scripti pred. superius specificat. adtunc & ibidem arbitravit ordinavit & adjudicavit inter ipsum E. & pred. R. H. in vita ipsius R. de & super eisdem premissis in forma sequen. (videlicet) quod pred. R. H. solveret seu securaret anglice *secure* solvi eidem E. vel assignatis suis summam 10*l.* legalis monetæ Angliae super vel ante primum diem Iulii tunc prox. sequen. quodque super solutionem pred. 10*l.* vel super securantiam, anglice *securing*, solutionis earundem 10*l.* eidem E. per pred. R. H. ut prefertur fiend. iidem E. & R. sigillarent alter eorum alteri general. relaxation. &c. prout per arbitrium illud plenius apparet, de quo quidem Arbitrio sic ut prefertur fact. prefatus R. H. in vita sua scilicet eodem primo die Junii, anno duodecimo supradicto apud Civitatem E. pred. habuit notitiam. Et idem E. ulterius dicit quod pred. R. H. non solvit nec solvi securavit eidem E. super vel ante pred. primum diem Iulii, anno duodetimo supradicto, seu ad aliquod tempus postea hucusque pred. summam 10*l.* quas ei super vel ante eundem diem solvisse vel solvi securasse debuit secundum formam & effectum Arbitrii pred. Et hoc parat. est verificare unde petit judicium & debitum suum una cum damnis suis occasione detentionis debiti illius sibi adjudicari, &c.

Et pred. A. dicit quod pred. Arbitrator nullum tale fecit arbitrium ordinationem neque judicium de & super premissis ante predictum sextum diem Junii in Conditione scripti mentionat. in forma qua pred. E. superiorius allegavit. Et de hoc ponit se super patriam. Et predictus E. similiter.

Et pred. I. per A. B. Attorn. &c. quando, &c. Et quoad totam transgr. pred. preter conculationem & consumptionem herbae & graminis pred. pedibus ambulando dicit quod ipse in nullo est inde culpabilis. Et de hoc ponit se super patriam. Et pred. R. similiter. Et quoad conculationem & consumptionem herbae & graminis pred. pedibus ambulando idem I. dicit quod pred. R. actionem suam pred. inde versus eum habere non debet quia dic. quod ipse pred. I. diu ante pred. tempus quo supponitur transgr. pred. fieri possessionat. fuisset & adhuc possessionat. existit de & in uno Claudio vocat. W. cum pertin. quodque idem I. & omnes alii possessores & occupatores Clansi illius vocat. W. cum pertin. pro tempore existent. a tempore cuius contraria memoria hominum non existit habere usi fuerunt & consueverunt pro se & servientibus suis quandam viam pedestrem ducen. a villa de T. pred. in per & trans quoddam Clausum

Clausum vocat. S. apud T. pred. ac infra Jurisdictionem pred. & abinde in per & trans quoddam al. Clausum vocat. C. apud T. pred. ac infra, &c. & abinde in per & trans pred. Clausum vocat. R. in quo, &c. usque ad & in pred. Clausum vocat. W. Et sic retrosum a pred. Clauso vocat. W. in per & trans pred. Clausum vocat. R. & abinde in per & trans pred. Clausum vocat. C. & abinde in per & trans pred. Clausum vocat. S. per eandem viam usque ad pred. villam de T. ad eund. & redeund. in via pred. omni tempore anni ad libitum suum tanquam ad pted. Clausum vocat. W. cum pertin. spectan. & pertin. per quod pred. I. pred. tempore quo, &c. a pred. villa de T. pred. in per & trans pred. Clausum vocat. S. & abinde in per & trans pred. al. Clausum vocat. C. & abinde in per & trans pred. Clausum vocat. R. usqne ad & in pred. Clausum vocat. W. in per & trans pred. Clausum vocat. R. & abinde in per & trans pred. Clausum vocat. S. per eandem viam ad pred. villam de T. predict. ivit & redivit prout ei bene licuit. Et idem I. in eundo & redeundo ut prefertur aliquantulum herbæ & graminis in eadem via in pred. Clauso vocat. R. in quo, &c. tunc crescen. pedibus ambulando conculkavit & consumpsit utendo via sua pred. & tam modicum dampnum quam potuit ibidem faciend. que sunt eadem taansgr. quoad concalcationem & consumptionem herbæ pred. unde pred. C. se modo inde queritur. Et hoc paratus est verificare unde petit judicium si pred. R. actionem suam pred. inde versus eum habere debeat, &c.

*tabula 11
De injuria
sua propria.*

*And have
Use of a
the Way.*

Et pred. R. quoad placitum predictum predicti I. quoad concalcationem & consumptionem herbæ pred. pedibus ambulando dicit quod ipse per aliqua in eodem placito preallegata ab actione sua pred. inde versus eum habend. precludi non debet quia dicit quod pred. I. de injuria sua propria herbam pred. in Clauso pred. nuper crescen. pedibus ambulando conculkavit & consumpsit prout idem R. superius versus eum inde queritur absq; hoc quod pred. I. & omnes alii possessores & occupatores Clusi pred. vocat. W. cum pertin. pro tempore existen. a tempore cuius contrarii memoria hominum non existit habere usi fuer. & consuever. pro se & servien. suis pred. viam pedestrem ducen. a villa de T. pred. in per & trans pred. Clausum vocat. S. & abinde in per & trans pred. alium Clausum vocat. C. & abinde in per & trans pred. Clausum vocat. R. in quo, &c. usque ad & in pred. Clausum vocat. W. & sic retrosum a pred. Clauso vocat. W. in per & trans pred. Clausum vocat. R. & abinde in per & trans pred. Clausum vocat. C. & abinde in per & trans pred. Clausum vocat. S. per eandem viam usq; ad pred. villam de T. ad eund. & redeond. in via pred. omni tempore anni ad libitum suum prout pred. I. superius

superius placitando allegavit. Et hoc paratus est verificare, unde ex quo pred. L. transgr. illi pedibus ambulando superius cogn. idem R. petit judicium & dampna sua occasione inde sibi adjudicari, &c.

Et predictus I. ut prius dicit quod ipse idem I. & omnes alii Rejoinder possessores & occupatores Clavi predicti vocat. W. cum per- in Maintenance of tin, pro tempore existen. a tempore cuius contrariorum memoria the Plea, hominum non existit habere usi fuer. & consuever. pro se & & exitus servientibus suis pred. viam pedestrem ducen. a villa de T. inde. pred. in per & trans predictum Clausum vocat S. & abinde, &c. (ut supra usque) ad eund. & redeund. in via pred. omni tem- pore anni ad libitum suum prout ipse superius placitando alle- gavit. Et de hoc ponit se super patriam, &c.

Et predictus A. per E. F. venit & defendit vim & injuriam quando, &c. Et dicit quod pred. B. ad narrationem suam pred. respondere non debet, quia dicit, quod pred. B. alias scilicet in Curia libertatis beatæ Mariæ Ebor. tent. apud Pal- latium Domini Regis juxta muros Civit. Ebor. (die & anno) pending. implacitavit pred. A. de placito transgr. super Casum ad dampnum ipsius B. 4 l. 19 s. in quo quidem placito super Compara- rentia ipsius A. in eadem Curia Libertatis beatæ Mariæ Ebor. predict. per C. D. Attorn. suum, inde tunc habit. pred. B. in Curia illa narrando versus eundem A. tunc dixit quod cum pred. A. (die & anno) &c. (totam narrationem recitando) prout per narrationem ipsius B. versus eundem A. in Curia illa de Recordo afflat. residen. plenius liquet & appareat. Et idem A. ulterius dicit quod pred. 35 s. in predicta narratione recitat. mentionat. & pred. 35 s. per predictum B. de prefato A. modo petit. sunt unum & idem debitum & non alia neque diversa debita quodqne predict. placit. in pred. Cur. beatæ Mariæ Ebor. adhuc pendet indeterminat. & minime disconti- nuat. Et hoc parat. est verificare unde petit Judicium si pred. B. penden. predicto placito in pred. Curia Libertatis beatæ Mariæ indeterminat. pro eodem debito ad narrationem suam pred. hic in Curia afflat. respondere debeat, &c.

Et predictus A. per E. B. Attorn. suum venit & defendit vim & injuriam quando, &c. Et dicit quod predictus G. acti- onem suam predictam versus eum habere non debet quia dicit quod predictus G. meruit habere de prefato A. pro dicto la- bore ipsius G. in narratione predicta superius mentionat. quin- decim solidos legalis moneta Angliae, & non amplius quos quidem quindecim solidos idem A. postea & ante diem impe- trationis querelæ predicti G. (scil. die & anno) apud B. pre- dict. Tender.

OF THE JUDICIAL AND Ministerial Power OF SHERIFFS.

TO treat of the Original, or the first Institution, of Sheriffs in this Nation, is not here necessary, being already done in the Tract of the County-Court, or first Part of this our Subject Matter; Therefore we will treat of his Office of Sheriff, in which Office he hath a three-fold Custody, viz.

I. *Cubas vita respublica*, The Conservator of the Life or Peace of the Commonwealth.

2. *Custos vice Justitia*, The Preserver of the Life of Justice; for no Process is executed but by him or his Officers deputed by him,

3. *Custos vice Legis*, The Guardian or Tutor of the Life of the Law; for after tedious and long-spun Suits, he is to make due Execution, which is the very Life and Spirit of the Law.

Now as he is *Custos vice Republica*, or *Principalis conservator pacis* within the County, he hath a judicial Authority; in the other two a ministerial.

Custos vice
Reipub.
His judicial
and mini-
strial Au-
thority.

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Judicial Power.

Fitz. N. B.
3. d. & 82.

Term. del
ley. tit.

wifc. 44.

Z. 3. F.

Bar. 202.
5 H. 7. 6.

3 H. 7. 1.

Stat. 3 Jac.
6. 4.

Br. Fines

37.

Offic. Cor-
ron. 3 E. 1.

Suspected
Persons.

Armed
Persons.

2 E. 3. c. 3.
Crom. 203.

He may
beat such
as resist
him, and
may set
them in the
Stocks. 2 E.

4. f. 6. 21
H. 7. 39.

Br. Tresp.
218, &c.
296.

To enquire
of Waite,
or to ex-
ecute a Writ

of Redis-
seisin.

He may
commit a
Dissessor to
Prison, &c.

Co. 6. f. 12.
Dalton

Office of
Sheriffs,

56. 18.

1. And first of his judicial Power ; and as he is a Preserver of the Peace, he may (*ex officio*) upon Request, command and cause another to find Sureties of the Peace, and may take the same Sureties by Recognizance ; for all Obligations that he takes to that End, are as Recognizances in Law.

And if he sees one Man assault another, or if an Assault be made upon himself, he may compel them to find Sureties of the Peace, and may set them in the Stocks until such Time as they do find them. See 5 H. 7. 6.

He may take (of the County where he is Sheriff) any Number that he shall think convenient (300 if Necessity require it) to pursue, apprehend, arrest and imprison Traitors, Murderers, Robbers, Popish Recusants, and all Felons ; to suppress Rebellions, Insurrections, or riotous Assemblies, or such as do break, or go about to break or disturb his Majesty's Peace : and every Man (required) as well Dukes, Earls, Barons, as all other his Majesty's Subjects within the same County, ought to aid and assist him ; and such as do refuse, may be fined to the King ; and may attach all Persons making such Default, to appear and answer before the Justices of Assize.

He may arrest all Persons by him suspected, or of evil Repute, that shall walk by Night or Day, committing them to the Gaol, to remain there until they shall be delivered by the Justices of Assize. 5 E. 3. cap. 14. Cromp. 103.

He may arrest all such Persons as go or ride offensively armed, and may commit them to Prison, there to remain during the King's Pleasure, unless they be delivered by the Justices before whom they shall be convict ; he may take their Armour to his Majesty's Use, and prize it by the Oaths of those that are present.

If a Party after he is arrested make Resistance, or shall make an Assault upon the Officer, as the Sheriff's Bailiff, &c. the Bailiff may justify the beating of such Resister, and such as disturb him in the Execution of his Precept, and may imprison them in the Stocks. 2 E. 4. fol. 6. 21 H. 7. 39. See Br. Trespass 18, and 296. And if the Party arrested and resisting be slain, it is justifiable. Fitz. Coron. 261. Doctor and Student 133. 6. Cromp. 24. a. 40. b. Sed quare.

By 11 H. 4. 7 A. 4 fol. 4. Br. Offic. fol. 4. 9. 34. 37. and 42. the Sheriff in a Writ to enquire of Waste, and a Writ of Redisseisin, he is both Judge, and the Officer of Record, and cannot delegate his judicial Power to any Bailiff of Franchise, but must enter the Liberty and execute it himself, otherwise it is Error. And if upon the Writ of Redisseisin, the Sheriff by Inquisition find the Dissessor to be disseised again, he may presently take such Dissessor and commit him to Prison, there to remain during his Majesty's Pleasure. See Co. 6. fol. 121. And in the Writ to enquire of Waste, and in the Writ of Redisseisin,

Redisseisin, whereby he is made Judge of the Cause, he must execute the same in proper Person, and not by his Under-Sheriff, or other Deputy whatever. Stat. Mert. 3. 39 H. 6.

42. 29 Aff. pl. 42.

Let us now descend to his Ministerial Power or Authority, His Ministerial Power. which is dissected into two Parts, viz. as he is *Custos vice Justitiae*, & *Custos vice Legis*.

2. *Custos vice Justitiae*. For all Processes are delivered to him *Custos vice Justitiae* to be executed.

And first to demonstrate his Initiation into his Ministerial Part of his Office, viz.

The new Sheriff being elected and sworn, at or before the Crem. 203. County next succeeding his Election, he is to deliver a Writ of Discharge to the old Sheriff, who thereupon is to set over all his Prisoners that are then in the Gaol severally by their Names, together with all his Writs, precisely by View and Indenture made betwixt the two Sheriffs, wherein must be comprehended, and expressly specified, all the Actions which the preceding Sheriff hath against every Prisoner; and till Delivery of the Prisoners to the new Sheriff, they remain still in the Custody of the old; as you may see in that learned Argument more at large in Westbie's Case, Co. 3. 72. Neither is the new Sheriff obliged to receive the Prisoners, but at the Gaol only; and upon the Return and Delivery of the Writs contained in the Indenture, if they were executed by the old Sheriff, the new Sheriff must indorse them in this Manner.

Co. 472. A.

Co. 3. 73.
Westbie's
Case.

I send you this Writ as it is indorsed, delivered to me by A. B. The Indorsement of such Writs as are turned over to the new Sheriff

E. F. Esq; Sheriff.

Istud brev. sic superius indorsat. & return. deliberat. fuit mihi per A. B. super Vic. Com. infra script. & proxe. Predecessorem meum, in ejus exitu ab officio illo.

Yet the old Sheriff (by the Statute of 12 E. 4. c. 1. and 17 Stat. 12 E. 4. 6.) till the Writ of Discharge be delivered to him, ^{E. 4. 5. 1.} _{Co. 17 E. 4. 6.} may execute his Office.

If a Sheriff die, or be removed before the usual Time, no Process shall be delivered to the Coroner, but the Execution thereof shall stay until a new Sheriff be elected and sworn; But upon Suggestion, that the Sheriff is of Kin to either Party, Process shall go to the Coroner. Stat. 12 E. 4. cap. 1. 22 H. 6 s. 1. 13 E. 4. s. 6.

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The old Sheriff may a long Time after he is out of Place, turn over a Prisoner to the present Sheriff that was omitted in the Calendar. *Siderf. Rep.* 335.

The new Sheriff is to take Notice who are in Execution.
Co. 3. 72. b.
Westbie's Case.

If the old Sheriff hath in his Custody divers Persons in Execution, and dieth, afterwards a new Sheriff is elected, it behoves the new Sheriff to take Notice at his Peril of all the Executions which are against any Person that he finds in the Gaol; and this is for Necessity-sake, for there is none to make Delivery of them, or to give him Notice who are in Execution, and who not. And it is no Detriment to the Sheriff if he keep them safe until he hath perfect Knowledge of all the Executions; for if he may with Impunity suffer such as are in Execution to escape, great Inconvenience would thereupon ensue. *Co. 3. 73. b.* *1 Westbie's Case.*

He is to preserve the King's Right, &c.
21 H. 7. 7.
s. Stansf.

Perk. 5. 6.

He is to preserve the Rights of the King within his County, and to enquire what Lands are concealed from him, or with-holden, and to seize to his Use the Profit of such Lands as come to him by Attainder, or Escheat; and likewise the Goods of any Felon, Fugitive, Outlaw, Egyptian, Goods received, and Goods confiscate, and Wreck of the Sea.

He ought to be vigilant that the Suits of his Majesty be done in his Majesty's Court, *viz.*

1. Suit-Real, or Royal.

2. Suit-Service.

Suit-Royal, what.

1. And to declare what Suit-Royal is, It is a Suit due to the Sheriff's Torn, or Leet; which is so termed because of their Allegiance.

2. Suit-Service is due also to the Sheriff's Torn or Leet, by reason of the Tenure of a Man's Land.

He must levy his Majesty's Debts, &c.
52 H. 3.
c. 15. Fitz.
173. Br.
Distr. 35.
32. 40. &
72. Stat.
51. H. 3.
Issues.
Dalt. Of-
fice of She-
riffs. f. 25. b.
Americia-
ments.

He shall levy his Majesty's Debt by Distress, either in the Highway or common Street. *52 H. 3. cap. 15.* *Fitz. 173.* And if he can find no Goods elsewhere, he may distrain in the Church. *Bro. Distr. 35.* and may sell such Distress after fifteen Days. See *Brook Distr. 32. 40.* and *72. and Stat. 51. H. 3.*

He is accountable to his Majesty for all manner of Issues and Profits of the County; and by his Office (upon Process out of the Exchequer) he is to gather up, and to bring into the Exchequer such Issues and Profits, &c. And likewise such Issues lost and returned in Respect of Nonappearance of the Defendants, or of Jurors, shall be forfeited to his Majesty, and shall be levied by the Sheriff. See *Dalt. fol. 25. b.*

He is also accountable to the King for, and upon Process, &c. and is to gather up, and to bring into the King's Exchequer, all Americiaments and Fines which shall be set or assessed (as a Penalty) upon the Heads of Offenders against the King, in any of his Courts; which is to be understood of Americiaments

ments upon the Plaintiff or Defendant, or upon the Tenant or Defendant in Actions real or personal; as if the Plaintiff and Defendant be nonsuit, or if Judgment be given against the Tenant or Defendant, or upon the Plaintiff, *quia non est prosecutus, or pro falso clamore, &c.* or upon the Mainpernors, because the Principal appears not, &c. In such case the Justices never assess any Amerciament; but by the Statute of *Magna Charta, cap. 14.* and *Westm. I. cap. 18.* the Amerciament ought to be assessed *per pares:* And the Court in such Case enters, *Ideo in misericordia, general,* without taxing or assessing any Sum in certain: And then the Clerk of the Warrants in the Common Place makes Estreats of these Amerciaments, and delivers them to the Clerk of the Assizes within every Circuit, to deliver unto the Coroners in every County to assess the Amerciament. *Dalt. fol. 27. a.*

*Magna
Charta,
14. Westm.
I. c. 18.*

His Majesty shall have all Amerciaments, Fines, Issues, and Recognizances, all Forfeitures or Recognizances lost or forfeited, &c. before *zince, Fines, A-*
any of his Judges or Justices in any of their Courts or Sessions; *mercia-*
but these must first be estreated into the Exchequer, and *ments, &c.*
from thence Process must be awarded to the Sheriff to levy the *33 H. 8. 39.*
same to the King's Use. *33 H. 8. c. 39.*

c. 39.

The Sheriff ought not to take or seize the Goods of any Man arrested, imprisoned, or indicted for Felony, or for Suspicion thereof, before the same Person be duly convicted or attainted of the same Felony, (*viz.* either by Trial, Confession, or Utlawry and Judgment thereupon given) or that the same Goods be otherwise lawfully forfeited, upon pain to forfeit the double Value of those Goods so taken to the Party grieved.

*He is to
seize no
Goods of
Felons, &c.
till they be
lawfully
forfeited.*

By the Statute *3 R. 3. c. 3.* Yet left the Goods should be disorderly wasted, or sold away, the Sheriff (before the Attainder of the Felon) may take Sureties that the Goods be not imbezilled, &c. and for Want of Sureties, the Sheriff, or other his Officers, may seize them, and deliver them to the Town, by them safely to be kept. *Brook, Title Forfeit, 44. Plow. 68.* But yet the Felon must have reasonable Maintenance for himself and his Family until he be convicted, and the Remainder shall be to his Majesty, &c.

*1 R. 3. c. 3.
But take
S sureties he
may, that
the Goods
shall not be
imbezil-
led, &c.
Br. tit. for-
feit, 44.
Plow. 68.*

If the Felon fly, the Sheriff is to seize all his Goods and Chattels, as also the Profits of his Lands to his Majesty's Use. But yet by *C. 4. 109. Plow. 262.* the Goods, &c. of a Fugitive are not forfeited until the flying for Felony be lawfully found upon Record, either before the Coroner upon an Indictment, *super visum corporis,* in Case of the Death of a Man, or by Verdict upon his Acquittal; for although he be found not guilty upon his Trial, yet shall he forfeit his Goods for his Lands, &c.

*He that
flies for
Felony for-
feits his
Goods,
Chattels,
and the
Profits of
his Lands,
&c.*

Co. 5. 109. Plow. 262. Fitz. Forf. 192, &c. Coron. 296. C 344.

his

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his flying; *quia satetur facinus, qui judicium fugit*; and the Law will admit no Proof against this Presumption: And albeit the Jury which tries him shall find him not guilty, and further, that he did not fly, yet the Goods are forfeited by Force of the finding of his flying before the Coroner; and the Sheriff presently after such flying found before the Coroner, is to seize the Goods, and the Profits of the Lands of such Offenders. See *Fitz. Forf.* 32. Yet he that shall flee for Felony shall not forfeit the Goods or Profits of his Lands which he had at the Time of the Felony or flying, but those only which he had at the Time of the Indictment or Acquittal. *Co. 5. 109. Fitz. Coron.* 296, and 344.

Felo de jure.

The Sheriff is to seize to the Use of the King the Goods and Chattels of him that killeth himself, but he shall not forfeit his Lands; yet if an Infant, a Man *Non compos mentis*, or a Lunatick killeth himself, he forfeits nothing.

Outlaws Goods for Felony. Co. 5. 110. b.

If a Man be indicted for Felony, and absents himself so long as an Exigent is awarded against him, that shall be accounted a Flying in Law, for which he shall forfeit all his Goods, although he shall be acquitted afterwards of the Felony; and the Sheriff may presently *ex officio* seize them to the King's Use. *Co. 5. 110 b. Staundf.* 184.

Must re- ceive all Writs, and execute them, &c. 2 E. 3. c. 6. Crom. 203.

The Sheriff, or his Under-Sheriff, shall receive all Manner of Writs at all Times, and in any Place within the Shire, and shall make Warrants thereupon. *2 Ed. 3. cap. 5. Cromp.* 203. and shall be by him or his Bailiffs executed.

He may command his Bailiffs to execute them either by Word or Precept, &c. Lamb. 91. 21 H. 7. 23. a.

He may command his Under-Sheriff, Bailiff, or other known Officer to execute them, either by Word or Precept: But if his Mandate be to a Man (that is no known Officer) to execute any Writ or Warrant, he must either deliver the Writ itself, or a Precept in Writing in his own Name, and under the Seal of his Office, otherwise an Action of False Imprisonment will lie for the Arrest. *Lamb. 91. 21 H. 7. 23. a.* But if a Precept be made to a Bailiff, and to a Stranger or special Bailiff, (*conjunctionem & divisionem*) and is not executed by the Stranger only, it is good. *Lamb. 91. and Dalton, Office of Sheriffs,* 44.

He must not dispute the Author- ity of the Judges, &c. that send Writs to him, but must exe- cute them. Co. 6. 54.

If a Writ issue out from the Judges, Justices, or the Court, he shall not stand capitulating or disputing their Authority, or the Validity of the Writ, but ought to execute it. *Co. 6. 54. 9. 68. & 10. 70. Dr. and Student* 150. For he is obliged both by Oath and Office to execute all Process of Law; and if a *Capias* be delivered to him without an Original, he shall execute it, and is excusable in an Action of False Imprisonment; for he being the Officer and Minister of the Court, it is Reason's Adversary to punish him for executing the Mandates of the Court, according to the Maxim, *Co. 13. 70. Quicunque iussu ju-*

9. 68. & 10. 70. Dr. & St. 150.

dicit aliquid fecerit, non videtur ex dolo vel malo fecisse, quia parere necesse est: He that acts any Thing by the Mandate of the Judge, seemeth that he acted not any Thing fraudulently or amiss, because he must needs obey: But if the Court dilate it self beyond its Jurisdiction, in that Case all the Proceedings are *coram non judice*, and there an Action doth lie against the Sheriff without any Regard to the Precept or Process; for when he hath no Jurisdiction, he is no Judge, and there is no Necessity to obey them, no more than a meer Stranger; and to back it with the Authority of a Rule or Axiom; *Extra territorium ius dicenti non patetur impune.* He that obeyeth in prescribing Laws beyond his Jurisdiction, shall not escape unpunished. *Co. ibid. fol. 57. a. & b.*

Co. 10. 77.

A Bailiff need not shew his Precept when he cometh to execute it upon any Man; yet upon the Arrest he ought to declare the Contents of it. But if a Bailiff be specially deputed, or one that is not a known Officer, he must shew the Warrant to the Party. *Co. 9. 69. 21 H. 7. 23. and 37.* Yet the special Bailiff is not obliged to shew it without Demand. *8 E. 4. 14. 14 H. 7. 9. Co. ibid.*

A Bailiff
need not
shew his
Precept
when he
executes
it; but a
special
Bailiff must

shew the Warrant, &c. Co. 9. 69. 21 H. 7. 23. &c. 37.

If a Bailiff by Virtue of a Precept from the old Sheriff after his Discharge shall arrest a Man, this Arrest is tortious, and an Action of False Imprisonment lieth both against the Sheriff and the Officer. *Crompt. 205. b.*

An Arrest
by an old
Sheriff
after his
Discharge
tortious.

The Maxim of Law is that *Dies Dominicus non est Dies Juridicus*, no judicial Act ought to be done on that Day. And by the Statute of 29 Car. 2. cap. 7. no Person or Persons upon the Lord's Day shall serve or execute, or cause to be served or executed any Writ, Process, Warrant, Order, Judgment or Decree (except in Cases of Treason, Felony, or Breach of the Peace) but that the Service of every such Writ, Process, Warrant, Order, Judgment or Decree shall be void to all Intents and Purposes whatsoever. And the Person or Persons so serving or executing the same shall be liable to the Suit of the Party grieved, and to answer Damages to him for doing thereof, as if he or they had done the same without any Writ, Process, Warrant, Order, Judgment or Decree.

Process
not to be
executed
on the Sab-
bath-day.

In all Cases where the Process concerns the King, the Sheriff, or other Officer (upon Refusal after Demand to open the Door) may break open the Door of the House, or use other Means to get in to do Execution: But in case of a common Person, the Law doth not permit the Sheriff, &c. upon Request made, and Denial, to break into the House of the Defendant to execute any Process at the Suit of any Subject, for

He may
break open
a Door to
execute a
Process
concerning
his Majesty,
but not in
Case of a
Case.

common Person. *Co. L. 92. 6. in Sylman's
the*

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the great Inconveniences that might ensue thereupon; because if Men, as well in the Night as in the Day, should have their Houses (which *in re vera* are their Castles and Fortresses) broken open, upon Pretence thereof, it would incur great Mischief and Damage; for by Colour thereof, upon any feigned Suit, the Houfe of any Man at any Time might be broken open, when the Defendant might be arrested elsewhere, and so Men should not be in Safety and Repose in their own Houses. And although the Sheriff be an Officer of great Authority and Confidence, yet it appears by daily Experience, That his Majesty's Writs are served and executed many times by Bailiffs, who are generally Persons of little or no Value or Credit; and therefore not to be trusted with the breaking open and ransacking of Houses upon every slight Occasion. See *Co. 11. 82. a. Lewis Bowle's Case.*

*Co. 11. 82.
a Lewis
Bowle's
Case.*

If an Under-Sheriff or Bailiff upon private Process enters into a House, which by Craft he gets to be opened by a Boy, or any third Person, in order to arrest the Defendant then in the House, the Under-Sheriff or Bailiff in this Case is a Trespasser, and such Entry unlawful. *Hob. 62.* See *5 Co. 92. b.* and *2 Crom. 556.*

He ought (*in propria persona*) four Times a Year to proclaim the Statute of *Winchester* within every Hundred of his Bailiwick, and in all Fairs and Markets by his Bailiffs. *7 R. 2. cap. 6. 13. E. I. cap. 1. 28. E. I. c. 17.*

Proclamation to be made four Times a Year. Stat. Winch.
Statute against unlawful Games.
3 Custos viae legis.

The Statute provided against unlawful Games, is likewise to be proclaimed four Times in the Year in every Market and Fair within the County. *33 H. 8. c. 9.*

We will now handle the other Ministerial Part of his Office; and that, as he is *Custos viae Legis*, which extends to his doing Execution (after a tedious and long-spun Suit) which is the very Life and Spirit of the Law. And this is divided into several Branches, or Kinds of Executions, *viz.*

Statute-Merchant.

Statute-Staple.

Recognizance.

Elegit.

Capias ad satisfaciendum.

Fieri Facias, &c.

Levari facias.

22 Aff. 47.

Of the last four Executions, two are by the Common Law, *viz.* 1. *Fieri facias.* 2. And *Levari facias*; and two by the Statute, *viz.* 1. *Elegit.* And 2. *Capias ad satisfaciendum.* *22 Aff. 47.* And note, that Execution by the Statute doth not oust Execution by the Common Law, no more than the Execution by one Statute ousts the Execution by another.

And first of the *Statute-Merchant*.

Statute-Merchant.

IT is defined by *West, Part 1. Symb. L. 2. Sec. 151.* to be a Statute-Bond or Obligation of Record acknowledged before one of Merchant, the Clerks of the Statutes-Merchant, and Mayor and chief what. Warden of the City of London, York, &c. or before the Bailliffs of any Borough, or other sufficient Men for that Purpose appointed, sealed with the Seal of the Debtor or Recognizor, and of the King; which consists of two Parts: The greater is kept by the said Mayor or chief Warden, &c. and the lesser Part thereof by the said Clerks. The Form of which you may see in *Fleta, lib. 2. c. 64. &c.*

And if the Debt be not paid at the Day, the Proceedings upon it, to have the Fruits and Effects thereof, are not like to the Proceedings in other Cases or Suits upon Obligations, &c. to reduce them to Judgment; but as they are in their own Nature much like to the Nature of a Judgment, so is the Proceeding and Execution thereupon, much like to the Proceeding and Execution upon a Judgment: And therefore the Conusee may bring an Action of Debt upon a Statute, or he may as soon as the same is forfeited, have a present Execution of it after this Manner.

He must bring his Statute to the Mayor and Clerk, or other Officer before whom it was acknowledged; and there sue out an Execution upon a Statute-Merchant. *Certiorari.* And if they find the Record of it, and the Day to be past for the Payment of the Money, they are to apprehend and imprison the Body of the Conusor, if he be a Lay-person, and can be found within their Jurisdiction; and if he cannot be found there, they are to certifie the Record into the Chancery; which also if they refuse to do, they may be compelled unto by a *Certiorari*. And if that Certificate be faulty, or Execution be not done upon it, by reason of the Death of the Conusor, or otherwise, the Conusee, or his Executor or Administrator, may have another Certificate; and thereupon he shall have a Writ of *Capias* out of the Chancery directed to the Sheriff of the County where the Conusor lives, to apprehend and imprison him (if he be not a Clergyman) and this is to be returned into the Common Pleas or King's Bench: And when the Conusor is taken, he shall have Time for a Quarter of a Year to make his Agreement with the Conusee, and to sell

Statute-Merchant.

*Exendi
ficias,
what.*

sell his Lands or Goods to satisfie the Conusee : And for that Purpose he may sell Lands or Goods, although he be in Prison, and his Sale is good and lawful : And if in that Time he do not satisfie the Conusee, or if upon the *Capias* the Sheriff return a *Non est inventus* ; then by a Writ (or by divers Writs, if the Lands or Goods lie in divers Counties) called an *Exendi facias*, all his Lands and Goods shall be delivered (by the Sheriff to the Creditors upon a reasonable Extent, to hold until the Debt be paid : And if the Jurors or Appraisers upon the *Exendi facias*, overvalue the Lands or Goods in Favour to the Debtor, the Conusee hath no Remedy, but by Motion in that Court where the Writ is returnable, at the Return-day, or at least the same Term wherein the Writ is returnable, to desire that the Appraisers may take the Lands or Goods at the Rate they have valued them, in the same Manner as the Conusee is to have them. But if the Conusee accept of the Lands and Goods from the Sheriff, or suffer the Term to pass wherein the Writ is returnable, he is too late, and hath no Remedy at all. And if the Appraisers do undervalue the Lands or Goods in Favour to the Debtor, it seems the Conusor hath no Remedy at all, for he may at any Time pay all or the Residue of the Debt and Damages unlevied, and have his Lands again if he please : Yet nevertheless the Body of the Debtor shall remain in Prison until the Debt be paid ; and if there be Suitors, they shall receive no Damage, so long as the Debt may be fully levied of the Goods of the Debtor.

All the Fee-simple Lands of the Conusor at the Time of the Statute acknowledged, &c. shall be liable to the said Statute, to whomsoever they be afterwards sold, by Alienation, Feoffment, or otherwise. *Stat. de Merchant.* 13 E. 1. 27. c. 9. and 23 H. 8. Co. 3. 12. But if the Debtor die, the Body of his Heir shall not be taken, but his Lands in Fee that descend to him by the Conusor, shall be taken (as aforesaid) if he be of full Age, or when he shall attain full Age, until the said Debt be levied. *Stat. ibid.* Copyhold Lands are not liable, nor shall be extended ; nor Lease for Term of Life : But Lease for Term of Years, and all other Goods and Chattels of the Conusor or Debtor are liable, and shall be extended, which the Conusor hath in his own Possession, and to his use, at the Time of the Execution sued or awarded. But Goods demised, pawned or pledged, may not be taken in Execution for his Debt that demised or pledged them, during the Lands not liable; nor Lease for Term of Life ; but Lease for Term of Years, &c. shall be extended, &c. Goods demised, pawned or pledged, may not be taken. 22 E. 4. fol. 10. 34 H. 8. Br. Plodg. 28. Nor Goods distrained for Rent, &c. may not be taken.

Time

Time or Term that they were demised or pledged. 22 E. 4. f. 10. 34 H. 8. Br. Pledg. 28. Also Goods distrained for Rent, Americament, Damage Feasant, &c. and are impounded *in custodia legis*, during the Time that they are so, may not be taken in Execution. See Br. Pledg. 28.

If the Conusor of a Statute-Merchant or Staple, &c. be taken, and die in Execution, yet the Conusee shall have Execution of his Lands and Goods. Co. 5. 86, 87. Fitz. 246. b. If the Conusor die in Execution, the Conusee may have Execution of his Lands and Goods.

Co. 5. 86. & 87. Fitz. 246. b. Or if the Conusor escape, his Goods and Lands shall be extended.

Certificate of the Statute-Merchant was sued forth, and Execution sued in the same County; the Sheriff returned *Non est inventus*, for which the Plaintiff sued another Certificate to the Mayor, by reason of which the Party was taken; and it was holden, that the second Certificate was not grantable, yet the Party taken would not be set at Liberty, by 28 E. 3. 91. Execution, 93.

28 Ed. 3. 91. Execution, 93.

Where there are several Certificates in divers Courts upon one Statute, Execution sued in the one shall not stay that in the other, because they are intended several Statutes; but it seems he may sue to the Mayor to certifie if there be another Statute or not, and so be helped. 29 Aff. 29. And because where a Certificate is sued in the Common Pleas, and the same Plaintiff sues another in the King's Bench, and the Justices were certified by the Mayor that all was but one Statute, the Parties caused the Record to come out of the Common Pleas into the King's Bench, and then a *Copias* shall issue out against the Conusor; and yet one Conusor was taken before the Common Pleas, but it appeared that he afterward escaped. 29 Aff. 41.

A Statute which was certified for the Testator, shall by a special Writ be certified for the Executor. F. N. B. 132. so where it is not sufficiently certified before; so where the Party keeps it in his Hands; so where the first Certificate is lost; and if the Mayor will not certifie it, a *Certiorari* shall be directed unto him. F. N. B. 244.

Executor. F. N. B. 132. F. N. B. 244.

Statute-Merchant.

The Mayor, &c. hath Power to hold Pleas done in the Staple.

Non est inventus returned upon a *Capias* in the Common-Pleas, *Capias & extendi facias* shall not issue out there, without shewing the Statute to the Justices,

The Mayor of the Staple hath Power to hold Plea of Things done in the Staple, and upon a Statute acknowledged before him Execution may be sued, or in the Chancery, at the Pleasure of the Party. 9 H. 6. *Falsidit. 6.*

Upon a Statute-Merchant, a *Capias* issued out of the Chancery returnable in the Common Pleas, the Sheriff did return *Non est inventus*: Now *Capias & Extendi facias* shall not issue out of the Common Pleas without shewing the Statute to the Justices, although he had shewed the same in the Chancery before; and if the Sheriff hath returned *Capi corpus*, and hath the Body here, if he do not shew the Statute, the Party shall be discharged although it be lost; but upon a Statute-Staple he must shew the same upon the *Capias* awarded, but not afterwards, because in the same Place. 37 H. 6. 6. & 7.

shewing the Statute to the Justices, &c. 37 H. 6. 6. & 7.

Statute must be shewed at the Day of the Return, all the Defendants. 26 H. 6. *Execution. 6.* See the Statute of 5 H. 4. c. 12.

A Stranger may have Execution where the Recognisee is dead. Or a Statute be made to two, yet one may have Execution, &c. 12 E. 4. 10. & 11. *Exctut. 14.* Vavasor said, that he saw where the Recognisee died, and a Stranger came in his own Name, and shewed the Statute, and had Execution, although the other came not in proper Person: And upon a Statute made to two, if one come with it, he shall have Execution in both their Names; and it is a common Course, that every Stranger who comes with the Statute, shall have Execution upon it in the Name of the Recognisee.

12 E. 4. 10. & 11. *Exctut. 14.*

Executors must sue out a *Scire facias* before they can have Execution, &c.

17 E. 3. 31.
18 E. 3. 10.

And upon *Non est inventus* returned upon the Certificate where the Plaintiff died, his Executors shewed the Statute, and had Execution of it. 17 E. 3. 31. But see 18 E. 3. 10. he shall not have it without a *Scire facias*; *vide Eliz. Dyer, &c.* Conusee of a Statute-Merchant had it certified in the Chancery, and thereupon had a *Capias* upon it and died; upon the shewing of the Statute his Executors had a *Sarrefactus*.

Execution upon the 20 l. in one, and 20 l. in another County; yet upon *Nibil* re-Suited into divers Counties, upon *Nibil* reu ned in one County, he shall have Execution of the whole in the other; &c. 16 E. 3. *Exct. 49. 41 E. 3.*

turned

Statute-Merchant.

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turned in one County, he shall have Execution of the whole in the other, if he hath Assets there. 16 E. 3. *Execution*, 49. And a Man may well pray Execution of the Body in one County, and an *Elegit* of the Land in the other County. *Execution*, 38.

If a Statute-Merchant be sued of Parcel of the Lands of the Consor, in the Name of all his Lands, he shall never extend on the rest of the Lands. *Mich. 22. E. 3. f. 14.*

Statute
sued of
Parcel of
the Lands

in the Name of them all, shall never extend the rest.

If three are bound to one in a Statute-Merchant, and every one of them by themselves, *quemlibet eorum per se*. I may sue Execution against one of them only, or against them all, at my Pleasure.

Three
bound to
one in a
Statute
severally,
Execution

may be against one, or all.

If an Infant bind himself in a Statute-Merchant, or Statute-Staple, he may avoid this during his *Nonage* by *Audita Querela*, to avoid this Statute by Matter of *fals*; and the like Law if the Statute be acknowledged by *dures of Imprisonment*. See *Anderson's Reports*, lib. 2. fol. 185.

Infant
bound in a
Statute
may avoid
it during
his Mino-
rity, &c.

The like by *dures of Imprisonment*.

Statute-Staple.

We now come to the Statute-Staple, which is duplicate, to use the Words of Mr. *West*, viz. either,

1. Properly so called; or,
2. Improperly.

Proper.
Improper.

1. A Statute-Staple properly so called, is an Obligation acknowledged before the Mayor of the Staple, in the Presence of one or two Constables of the same Staple: And by Virtue per, what of such Statute-Staple, the Creditor or Recognisee may forthwith have Execution of the Body, Lands and Goods of the Debtor or Recognisor; and this is founded upon the Statute of 27 E. 3. c. 9.

2. A Statute-Staple improper, is an Obligation of Record founded upon the Statute of 23 H. 8. c. 6. of the Nature and Validity of a proper Statute-Staple, as touching the Form proper, and Execution thereof, and acknowledged before one of the what.

Statute-
Staple im-
proper,
chief Or, 27 H. 8.
c. 6.

chief Justices, and in their Absence before the Mayor of the Staple at Westminster, and Recorder of London. (You have the Forms of all these Obligations or Statutes in West, Part 1. Symb. L. 2. Sect. 152, 153, 154, 155.) It is sealed with three Seals, *viz.* with the Seal of the Conosor, with the Seal of the King, and of one of the said Justices, or of the Mayor and Recorder. 23 H. 8. c. 6. And note, that all Statutes-Staple and Merchant shall be brought to the Clerk of the Recognizances within four Months, and inrolled within six Months; otherwise such Statute shall be void against Purchasors, &c.

27 E. 6. 4.

The Manner of proceeding upon a Statute-Staple

27 Eliz. c. 4. The Manner of the Proceedings upon it are the same with the Statute-Merchant, saving that in a Statute-Staple, presently after the Certificate into the Chancery, the Conusee shall have a Writ to take his Body, and extend his Lands and Goods, returnable in Chancery; and this Writ is a Commission directed to the Sheriff of the County where the Lands and Goods lie, for the valuing of the same, whereby all the Lands, Goods and Chattels of the Conosor shall be appraised and valued at a reasonable Rate by a Jury of Men sworn, charged by the Sheriff for that Purpose; which Inquisition so taken, is to be returned by the Sheriff; and thereupon, the Lands, Goods and Chattels are to be taken into the Sheriff's Hands, and by him to be delivered to the Conusee (which the Sheriff may do if he will without any Writ) to hold unto the Conusee, till he be satisfied his Debt and Damages; and if the Sheriff refuse so to do, the Conusee shall have a Writ out of the Chancery called a *Liberate*, to compel him to deliver to the Conusee the Lands, Goods and Chattels so found by Inquisition, and taken into his Hands upon the Extent, which the Sheriff need not return. Fitz. *Accont* 97. *Execution in toto*. Bro. *Stat. in toto*. Stat. *Alon-Burnel de Mercat*. 27 E. 3. 9. F. N. B. 130, 131, 132. Dyer 180. Co. 4. 67. Plow. 61, 62, 82. Co. *super Litt. 290. Co. 5. 87, &c.* See more of the Proceedings in *Statute-Merchant*.

Note.

Co. L. 6.
45. C. 2.
in Higgins's
Case.

It was adjudged in B. R. Hill. 42 Eliz. that a Debt recovered in the King's Court by Judgment, shall be paid before a Bond in Nature of a Statute Staple or Merchant; because the Judgment is a Matter of a more high and worthy Nature than private portable Pocket-Records: Also it shall be preferred before a Recognizance acknowledged in any Court by Assent, which may also be privately done; and a Judgment so given in the King's Court, upon ordinary and judicial Proceeding, which remain in the Custody of a sworn Officer, are Records which are preferred in Law before such Statutes; & non refert, whether the Judgment, or Recognizance, or Statute be first; for be the Judgment first or last, it shall be first satisfied, &c. And so it was holden *per totam Curiam* in the Common

mon

mon-Pleas in Pemberton and Bartam's Case, *Plow.* 32 *El. Rot.* 235. which see in the End of Sadler's Case in the fourth Report. *Dyer* 80. 53. *Pemberton and Bartam's Case, Plow.* 32 *El. Rot.* 235.

Recognizance, what it is.

WE come now to the third, which is Recognizance; and that is an Obligation or Bond of Record, acknowledged in a Court of Record, testifying the Recognizor to owe to the Recognizee a certain Sum of Money, and is acknowledged in some Court of Record, or before some Judge, or other Officer of such Court, having Authority to take the same, as the Master of the Chancery, the Judges of either Bench, of the Exchequer, Justices of Peace, &c. And those that be meer Recognizances are not sealed but inrolled; and yet some are sealed with the Seal of the Party, and may be with Condition annexed, or may be single, and then to have Indentures of Defeasance.

If the Money be not paid at the Day, the Conusee proceeds upon it after this Manner: The Conusee, his Executor or Administrator, is to bring a *Scire facias* against the Conusor; or if he be dead, against his Heirs, when they shall be of full Age; or if the Lands the Conusor had at the Time of the entring into the Recognizance be sold, against the Purchasers of those Lands, which the Conusor had at any Time after the Recognizance entred into, to warn them to come into that Court whence the *Scire facias* cometh, and to shew Cause why Execution should not be done upon the said Recognizance: And if the Party or Parties cannot be found to be warned, or being warned do not appear at the Time; or appearing, shew no Cause why the Debt should not be levied, then the Conusee shall have Execution of a Moiety of his Lands by *Elegit*; or if the Conusor be living, of all his Goods by *Levari*, or *Fieri facias* at his Election; but he cannot have Execution of his Body, unless he bring an Action of Debt upon the Recognizance, or if it be by Course of the Court, as it is in the King's Bench upon a Bail, in which Case a *Capias* doth lie. *Dyer* 360. 315. *W. St. 2. 18. Bro. Execution* 159. *Co. 3. 11. 15 H. 7. 16. Kitch.* 117. And the Proceedings against the Sureties in Statutes shall be as the Proceeding against the Principal; but in case where there are Moveables of the Principal to satisfie the Debt, the Sureties (as it seems) shall not be charged. *Stat. de Mercatoribus.*

The Manner of proceeding upon a Recognizance

Elegit.
Levari
facias.
Fieri fac.
Capias.

Proceedings against the Sureties.

Recognizance.

Execution
of all the
Goods and
Chattels,
and a Moi-
ety of the
Lands.

Execution
of the Land
which the
Recognisor
had at the
Time of
the Recog-
nizance, &c.

Two sued
in Execu-
tion, the
Money de-
livered to
the Atto-
ney of the
one, and to another himself, good, &c.

The Heir
charged,
&c.

Execution
upon Stat.
and finds
Bail, and
doth not
appear at
the Day, &c.

Two sue
Execution,
and one
dies before
the Extent,
yet the
Lands
shall be
extended.
11 R. 2.
Brief, 938.

Three
bound in a
Statute
jointly and
severally,
he shall
have Exe-
cution a-
gainst one,
or all, but
not against two, &c.

Execution by Virtue or Force of a Recognizance shall be of all the Goods and Chattels of the Recognisor (except the Beasts of the Plough, and Implements of Husbandry) and of the Moiety of his Lands. *West, 103.*

The Recognisee by the first Writ shall not have Execution, but of the Land which the Recognisor had at the Time of the Recognizance, or since; and upon Return that he had no Land, then he shall have a Writ to try who had it at the Time, &c., or after, &c. 36 E. 3. *Execution 47. 19 E. 3. 1.*

Where two sued Execution, the Money was delivered to one, and the Attorney of the other. *Mich. 14 E. 3. Execution 76* and the Defendant in Court did pay the Money to one, the other being absent; and it was good, and the Recognizance was withdrawn. *Mich. 22 E. 3. 15. Execution 87.*

The Heir shall be charged in Debt of the Lands which he had by Descent, the Day of the Writ brought, and not the Day of the Judgment. *Mich. 18 E. 2. Execution 241.*

If a Man be in Execution upon a Statute, and finds Bail, and does not appear at the Day, but at another Day the Bail brings him in: Now it is in the Election of the Plaintiff to take Execution of his Body and Land, or to take the Bail. See 59 E. 3. *Execution 43.*

If two sue Execution, and before the Extent one dieth, the Sheriff shall extend the Land, and shall deliver the same to the other. 11 R. 2. *Brief, 938.* But if two sue Execution of a Statute-Merchant, and the Reconisor is returned dead, and then one of the Consuees doth acknowledge the Death of his Companion, he shall not have Execution without shewing a Writ out of Chancery. 25 E. 3. *Execution 92.*

Otherwise upon a Statute Merchant.

Where three are bound in a Statute jointly and severally, the Plaintiff shall have Execution against one, or all of them, at his Election, and not against two; and so of an Obligation: But if he bring Debt against them all upon a joint Bond, the Execution shall be against all; but if he bring it by several Preceipe's, he shall not have Execution but against one, 34 E. 3, *Execution 129. 14 H. 4. 19. Execution 29.*

pervsent

Note

Note further, That a Recognizance, though in the special Signification it doth but acknowledge a certain Debt, and is executed upon all the Goods, and half the Lands of the Recognizor; yet by Extention it is drawn also to the Bonds or Obligations commonly called Statute-Merchant and Statute-Staple; as appeareth by the Register of Original Writs, fol. 146. 151, 152.

Elegit, what.

Elegit is a judicial Writ by the Statute, and lieth for him that hath recovered a Debt or Damages against one notable in his Goods to satisfie; and directed to the Sheriff commanding him, that he make Delivery of half the Party's Lands or Tenements, and all his Goods and Chattels (Beasts for the Plow excepted) Old N. B. fol. 192. Register of Original Writs, fol. 299. and 301. and the Table of the Register judicial, which expresseth divers Uses of this Writ.

In Elegit, by Force of the Statute of Westm. 2. cap. 18. the Sheriff may take in Execution the Moiety of the Lands of the Convisor, and all his Goods and Chattels (except as before) and may deliver them unto the Consuee upon a reasonable Price or Extent until the Debt be satisfied: But the Valuation of the Goods and Lands ought to be first found by the Inquisition of a Jury. Co. 4. 74. and the Sheriff is to deliver him Seisin of them, who is Tenant by Elegit, and shall do no Waste.

and Lands must be found by Inquisition. Co. 4. 74.

Upon Elegit the Sheriff ought to return the Extent, and also that he hath delivered the Lands, &c. 12 E. 3. Scire fac. 117. and the Extent shall be good for the Sum due, notwithstanding that it be more. 44 E. 3. 11. Execution 35.

The Sheriff must return the Extent, and that he hath delivered the Land, &c.

A Man sued an Elegit, and had a Term of Years delivered to him in Execution, which the Defendant had in Possession as a Chattel, and adjudged good. An Annuity may be extended, and Rents, &c.

Term of Years delivered in Execution upon Elegit good, and also Rents.

The Sheriff must return the Moiety distinctly, unless they be Tenants in Common; and in that Case he must return the special Matter. An *Elegit* issued out against one *Griesley*, by the Name of *Griesley*, Esq; who was at the Time of suing out the Writ made Knight and Baronet, and it was insufficient, and the Plaintiff prosecuted a new Writ. *Brownl. Rep.* 38.

The Sheriff cannot deliver a Lease at another Value than what the Jury had found it. Goods cannot be sold by the Owner after the *Teste* of the *Elegit*.

An Execution valuable without Satisfaction.

23 H. 8.
cap. 5.

Note, where
a *Capias*
lies after
an *Elegit*.

In every *Elegit* the Sheriff must return and set out the Moiety distinctly, unless they be Tenants in Common; and in that Case he must return the special Matter. An *Elegit* issued out against one *Griesley*, by the Name of *Griesley*, Esq; who was at the Time of suing out the Writ made Knight and Baronet, and it was insufficient, and the Plaintiff prosecuted a new Writ. *Brownl. Rep.* 38.

A Lessee had a Lease to the Value of 100 Pounds, and after the *Teste* of the *Elegit*, and before the Sheriff had executed it, assigns his Term to one, who assigns it to the Plaintiff in the *Scire facias*, and afterwards, and before the last Assignment, the Sheriff executes the *Elegit*, and delivers the Lease to the Plaintiff, to be holden, &c. for Satisfaction of the Debt, which came but to 43 l. 6 s. 1 d. and it was held by all the Judges, that the Sheriff could not deliver the Lease at another Value than what the Jury had found it at; and the Sale made by the Sheriff is as strong as if it had been made in the open Market, and that all the Goods and Chattels are bound after the *Teste* of the *Elegit*, and cannot be sold by the Owner after the *Teste* of the Writ. *Brownl. Rep.* 38. *Comers versus Brandling*.

There are great Diversities between an Execution not valuable, (as of the Defendant's Body) and an Execution valuable, as of Lands, &c. As if two Men are bound jointly and severally in an Obligation, and the one is sued, condemned, and taken in Execution, and afterwards the other is also sued, condemned, and taken in Execution, and then the first escapes, and the other brings his *Audita Querela*; in that Case he shall be barred to bring that Writ, until the Plaintiff be satisfied. So likewise if the Defendant in Debt die in Execution, yet the Plaintiff may have a new Execution by *Elegit* or *Fieri fac*. But if the Plaintiff have once Execution of the Lands of the Defendant, and after the Lands are evicted, there, before the Statute of 23 H. 8. cap. 5. he shall not have any new Execution; for the Execution of the Lands was valuable, and accounted in Law for a Satisfaction, and (to avoid Infiniteness) he shall have but one valuable Satisfaction, or one Execution, with Satisfaction at the Common Law. *Co. 5. 86 b. 3. Blumfield's Case*.

If upon an *Elegit* there be no Execution but upon Goods, because there is no Land, and the Goods appear insufficient, he may have a *Capias*. For note, it is in Effect but a *Fieri fac*. though the Word be *Elegit*: But if there be Land extended, then it is otherwise; and yet, *Quere* if the Debt be forty Pounds, and nothing extended but a Lease for three Years, at five Pounds a Year, or the like; for then to that which remaineth, the *Elegit* fails. *Hob. Rep. fol. 58.*

If a Judgment be obtained against a Man, who thereupon Lands sold sells his Land, in whose Hands soever the Land is, it shall after Judgment be liable to satisfy that Judgment; and to that End shall be liable to issue out a *Seire facias* against the Tertenants, if the Debtor die.

Two Writs

If two Writs of *Elegit* be delivered to the Sheriff both at one Time, the Sheriff is to extend the Moiety of all the Lands, and shall give the Moiety to the more ancient Debt; and then he ought to extend a Moiety of the other Moiety, and deliver it to the other; for he cannot deliver a Moiety of all the Lands to one, and the other Moiety to the other. See *Attorneys Academy*, 109.

of *Elegit*
delivered
to the She-
riff at one
Time, how
to be exe-
cuted.

Several *Elegits* may issue into several Counties where the Land lies.

Several
Elegits
may issue
into several
Counties.

If a Man be bound in a Recognizance to pay Money at a certain Day; after the Year and Day past, the Conusee is to sue forth a *Seire facias* against the Recognisor, to shew why the Recognisee should not have Execution: And if the Party be summoned, and appear not; and if he doth appear, & *nihil dicit*, the Conusee may sue forth a Writ of *Elegit* to have Execution of all his Goods, and of the Moiety of his Lands; and if the Sheriff returneth upon the *Elegit*, that the Conusor had made a Feoffment of Part of the Lands to divers Persons, and that he hath infeooffed the King of the Residue; those of which the King is infeooffed are discharged, but a *Seire facias* lieth against the other Feoffees; and if they cannot plead any Thing in Bar of the Execution, the Recognisee shall have Execution against them of those Lands by *Elegit*. *F. N. B. act.*

In Debt upon an Obligation, the Defendant pleaded Conditions performed; and being at Issue upon a Point certain, the Defendant before Trial, knowing that the Verdict would go against him, conveyed his Lands to others, upon Condition of Payment of 20*l.* but he himself took the Profits of them: The Plaintiff sued forth an *Elegit* to have Moiety of the Land in Execution; the Sheriff returned, that he and the Jury doubted if the Lands should be extended: It was the Opinion of the Court, that the Lands were extendable upon the *Elegit*. *Mib. 13 Eliz. Dyer 294.* See *Co. 3 Part, 78.* in *Twin's Case* adjudged. *22 Aff. 44.*

Upon a Writ of *Elegit* the Sheriff made his Return, that he had delivered to the Plaintiff *bona & catalla defendantis ad valorem* 20*l.* *per rationabile premium*; and that he had delivered unto him twenty Acres of Lands of the Defendant's, which is the Moiety of all his Lands, *per rationabile extentum*; but did not return, that there was an Inquisition taken of it by the Oath of twelve Men; and for that Cause the Return was holden insufficient: for the *Elegit* ought to be by Inquisition,

sition, for the Sheriff himself cannot extend the Lands. *Trim.*
I. M. Dyer 100.

In Debt against the Heir upon an Obligation of his Father, who pleaded, that he had nothing by Descent, which was found against him, the Plaintiff had an *Elegit* against him, as well of the Land which he had by Purchase, as of that which descended unto him; but the Reason thereof, as it seems, was by reason of his false Plea. *21 E. 3. 9, 10.*

Elegit into
another
County on
Nihil re-
turned.

If the Sheriff upon an *Elegit* awarded return, that the Defendant hath no Lands in the same County; upon a *Testa-
tum* he shall have an *Elegit* into another County. *21 H. 7. 19.
26 H. 8. 7. 20 E. 3. Fitz. Title Process 43.* But see *18 E. 2.
Fitz. Title Execution 140.* where it is holden, that he shall not have *Elegit* unto another County upon a *Nihil* returned.

Execution
on a Re-
cognizance

A. acknowledged a Recognizance of *250 l.* unto the Chamberlain of *London*, and his Successor; and afterwards he acknowledged a Statute-Staple of *200 l.* to *B.* *B.* sues Execution by a *Liberate*, which is not returned: The Successor of the Chamberlain sues Execution by Precept to a Serjeant at Mace, in the Nature of an *Elegit*, and hath the Moiety of the Lands of *A.* delivered in Execution. *A.* dies: It was resolved in this Case, amongst other Points: 1. That the Execution by the Serjeant at Mace was good, notwithstanding the Statute of *Wm. 2. cap. 18.* which is, *Viecomes liberet ei medietatem*; for the Statute extends to every immediate Officer to any Court of Record. 2. That the Execution of the *Elegit* was good enough, without suing a *Scire facias* against *B.* being by Master of Record; but it was said, that if the Sheriff had returned the Execution, he ought to have had a *Scire facias* against *B.* *35 Eliz. Co. 4. Part 64. Fulwood's Case.*

Elegit,
when a
Bar.

In an Action of Debt, the Plaintiff declared of a Recovery of Costs and Damages in a Writ of Entry; the Defendant pleaded in Bar, that the Plaintiff immediately after the Judgment took forth an *Elegit*, and delivered the Writ to the Sheriff, who executed the same, by Delivery of the Moiety of the Land to the Plaintiff; but the Writ was not returned; yet it was holden a good Bar, because the Plaintiff cannot vary from the Execution of which he hath made Election upon Record. *Pasch. 13 Eliz. Dyer 299.*

Upon an Execution upon an *Elegit*, if there be no Execution but upon Goods, and the Goods be not sufficient to satisfy the Debt, and there is no Land, it was the Opinion of *Hobart*, Chief Justice, that the Party may have a *Capias* against the Defendant; for now it is in effect but a *Fieri facias* altho' the Word be *Elegit*; but if the Land be extended, it is otherwise. And yet *Quare*, if the Debt be *40 l.* and nothing extended but a Lease for three Years, at *5 l.* a Year for them; as to that which remains, the *Elegit* fails. See *Hob. 58, 59.
in Foster and Jackson's Case.*

The

The Conusor and the Conusee of a Statute both died, the Re-extent Executors of the Conusee sued forth Execution by *Elegit*; by Executors upon which Writ the Sheriff returned the Death of the Conusor, and also an Inquisition of Extent of the Lands of the Conusor; but in the Inquisition no Estate was returned, but generally, that the Conusor was seized at the Day of the Recognition acknowledged of the Manor of B. notwithstanding a *Liberate* issued forth upon that Return, and the Executors accepted of it according to the Extent. The Doubt was, If the Executors die before any Profits received by them of the Land upon that Extent, if their Executors might have a Re-extent upon that insufficient and uncertain Return? And it was the Opinion of the Justices that they might; for the first Extent was void. For the Return, that he was seized, might be taken, either of an Estate for Life, or in Tail; in which Case, after the Death of the Conusor, his Land is not extendable; and where the Death of the Conusor appears in the Return, it ought to be found that he was seized of an Estate in Fee-simple only, and not of any other Estate. *Pascb. 13 Eliz.*
Dyer 299.

A Writ of *Elegit* was sued forth after Judgment; the Writ ^{Amend-} recited the Judgment, *Quod elegit executionem* of the Goods, of ^{ment.} the Moiety of the Lands; and the Writ was, *Tibi præcipimus quod bona & catala* of the Defendant, *qua habuit die judicij predicti redditi deliberari facias*, omitting the Words, *Et mediæatem terrarum & tenementorum, Tenendum* the said Goods, and the Moiety of the said Lands, *Quousque debitum levetur*. The Sheriff extended the Moiety of the Lands and the Goods, and delivered the Moiety of the Land, and returned the Inquisition. It was moved, that the Writ might be amended, being but the Misprision of the Clerk, and that the Extent might stand. But it was the Opinion of the Court, that it should not be amended, but he might have a new *Elegit*, because the Inquisition was taken without Warrant. *Mich. 5. Car. in B. R. Walker and Ricb's Case. Cro. 1 Part, 116.*

In Trespass upon a Demurrer, the Case was, the Sheriff ^{Extent by} returned upon an *Elegit*, that the Party had not any Lands, ^{Bailiff.} but only within the Liberty of B. and that I. S. there had Execution, and Return of Writs, who enquired and returned an Extent upon Inquisition, and that the Bailiff delivered the Moiety of the Lands extended to the Party, and by Virtue of that Extent the Plaintiff entred. The first Question was, Whether the Bailiff of a Liberty might make Inquisition and Extent upon an *Elegit* by Warrant from the Sheriff. It was resolved that he might. 2 When the Jury finds the Seisin of the Land, if the Jury ought to set out the Moiety for the Plaintiff, or the Bailiff: It was resolved, that the Jury shall extend all the Land, and the Bailiff, or Sheriff, where no Franchise is, shall deliver the Moiety to the Party, and not delivered. ^{The whole to be ex- tended, and half delivered.} the

the Jury. *Hill. 8 Car. in B. R. Sparrow and Matterlock's Case-Cro. 1 Part, 232.*

What Execution good, tho' the Writ is not returned.

Note, That it was resolved by the Court in Fulwood's Case, that the Execution of a *Liberate* was good, although the Writ was not returned: and so it is upon a *Capias ad satisfaciendum*, and *Habere facias possessionem*, and all other Writs where Land only is to be delivered, Seisin had, or Goods sold, they are good, although the Writs are not returned: But otherwise it is, where an Inquest is to be taken, as in an *Elegit*, and that is to the Intent that the Court may judge of the Sufficiency of the Inquisition. Co. 4 Part, 65. See Co. 4 Part, 74.

Fault in the Roll, not aided by the Writ.

A. recovered 400*l.* against E. O. who died; and upon a *Sci. fac.* the Sheriff returned **B.** *Tertenant Omnim terrarum & tene-mentorum in baliuua sua, qua fuerunt pred. E. O &c.* and Judgment was given, that **A.** should have Execution against the said **B.**, whereupon **A.** prayed *Elegit*, which was entered upon the Roll, *Elegit sibi liberari medietatem omnium terrarum & tene-mentorum in Com. S. Tenend. &c. quousque, &c.* but the Words *qua fuerunt pred. E. O.* were omitted: And for that the Judgment was reversed, *quod adjudicationem executionis* upon the *Elegit*; and yet it was holden by the Court, that the Writ it self, and the Return of it, were well in that Point; but it was said, where the Roll is faulty, the Writ will not help it. *Mich. 5. Jac. in the Exchequer. Keer and Owen's Case. Hob. 90.*

No Capias nor Fi. fac. dorth lie after an Elegit.

And why?

*Mich. 30
E. 3. c. 24.*

If a Man doth pray to have an *Elegit* to have the Moiety of the Defendant's Lands in Execution, and the Sheriff returned that he had no Lands, whereupon he prayed a *Capias* to arrest the Party, but the Court would not grant it; but if the Conusee, &c. would tarry till Lands did come to the Defendant, or Goods, then, &c. But now he could not have a *Capias*, nor a *Fieri facias*. And the Cause is that the Entry in the Roll is, that he hath chosen his Execution of the Moiety of his Lands, the which he must stand to, because it is an Execution in the Superlative. *Mich. 30 E. 3. 24.*

Capias ad satisfaciendum.

IT is a Writ (by the Statute) after Judgment, lying where a Man recovereth in an Action personal, as Debt, or Damages, or Detinue; and he against whom the Debt is recovered, hath no Lands or Tenements, nor sufficient Goods, whereof the Debt may be levied: In this Case, he that recovereth shall have this Writ to the Sheriff, commanding him, that he take the Body of him against whom the Debt is recovered,

vered, and he shall be imprisoned until Satisfaction be made to the Recoveror. And the Sheriff must keep him *in salvo & arcta custodia*, unless he intend to pay the Debt himself: For if a Prisoner be taken upon an Execution, and he shall afterwards let him go at Liberty before the Debt be satisfied, &c. the Creditor may have either an Action of Debt, or an Action upon the *Cafe* against the Sheriff, and so recover his Debt. *Fitz. 93. a. c.*

Prisoners
must be
kept *in
salvo &
arcta custo-
dia.*

A Man shall not have a *Ca. Sa.* but when *Capias* lieth in the Original. *11 H. 6. 18.* See *Co. 3 Part*, Sir William Herbert's *Cafe*. *8 H. 6. 9. 22 E. 4. 22.*

Ca. sa.
where a
Capias lies
in the Ori-
ginal.

Upon this Writ the Sheriff can take nothing but the Body of the Defendant; for the Writ is to do no more but to take his Body, and to detain him in Prison till he hath satisfied the Debt. *Co. 5. 8.*

Nothing
but the
Body can
be taken
by this
Writ. *Co. 5*

When a Man is in the Custody of the Sheriff by Process of Law, and afterwards another Writ is delivered to him, to arrest him who is in Custody, presently he is in his Custody by Force of the second Writ by Judgment of Law, although he do not actually arrest him; for to what Purpose shall he arrest him, who is and was before in his Custody? *Et lex non prcipit inutilia, quia inutilis labor stultus.* And the Words of the *Capias ad satisfaciendum* are not only *quod capias*, &c. but *quod salvo custodias*, &c. *Ita quod habeas corpus*, &c. So that although he cannot take him whom he hath in his keeping, yet he may safely keep him; and therewith agreeth. *7 H. 4. 30.*

A Man in
the Custo-
dy of the
Sheriff, and
a second
Writ is de-
livered to
him, he
shall be in
his Custody
upon it, al-
though not
actually
arrested.

If two Men be bound jointly and severally in an *Obligation*, the one is sued, condemned, and taken in Execution, yet the other may not go scot-free; for he may be likewise sued and taken in Execution, until the Plaintiff be satisfied of his entire Debt. *Co. 5. 86.* But if the Creditor be satisfied by the first that was in Execution, the other may plead this Satisfaction, and be discharged. *29 H. 8. Title Executors b. 132.*

7 H. 4. 33.
Two bound
in an Ob-
ligation
jointly and
severally,
b. th may
be sued and
taken in
Execution,
Co.

A Woman recovering Damages in a Writ of *Dower*, she cannot have Execution of these Damages recovered by a *Capias ad satisfaciendum*, because the *Capias* was not in the Original. *11 H. 7. fol. 5. 2 H. 7. fol. 7.*

If a Man be condemned in an Action of *Debt*, and the Sheriff hath him in Execution, by a *Capias ad satisfaciendum*, by arresting him, although the Sheriff do not return the Writ, an Action of false imprisonment is not to be brought against the Sheriff for not making Return of the Writ; for the Writ of *Capias ad satisfaciendum* is not as other *Capias*, that is, so that you have his Body before, &c. For in every *Capias ad satisfaciendum*, the Judgment is given before, and it is but to take Execution *so.*

No *Ca. sa.*
for Dama-
ges in a
Writ of
Dower.
No Return
required
upon a *Ca.*

Capias ad satisfaciendum.

of the Party, in which no Answer nor Return availeth. *Pesch.*
21 H. 7. f. 13.

If one be in Execution by his Body, and the Party doth release unto him all Actions, Suits and Debts, he shall not have an *Elegit*, nor a *Capias*, because the Duty is extinct. 26 H. 6.
Execution 7.

If a Defendant hath a *Supersedeas*, *Quis erronee emanavit*, and gives it to the Sheriff after Arrest, the Sheriff must discharge the Defendant: But if the *Supersedeas* be grounded upon a *Writ of Error*, it cannot discharge the Defendant; for the Words of that *Writ* are, *Si execusio non fieri*. Hob. 329.
34 H. 6. 18. & 45. 19 H. 6. 8, 6 H. 7. 17. 19 H. 6. 43. 34 H. 6. 18.

Capias pro Fine, Capias Utlagatum, Capias ad Valentiam.

There are three other Writs of *Capias* after Judgment, viz.

1. *Capias pro Fine.*
2. *Capias Utlagatum.*
3. *Capias ad Valentiam.*

Capias pro Fine, what it is.

1. The *Capias pro Fine* is, where one being fined by Judgment unto the King, upon some Offence committed against a Statute, doth not discharge it, according to the Judgment: by this is his Body taken, and imprisoned till he pay the Fine. *F. N. B. 76. Co. 11. 42. 8. 60.*

An *Elegit* sued after one is taken for the King's Fine, he shall go at large. *Ex. 18 E. 3. Execut. 54.* Yet upon *Nihil* returned, he may have a *Capias*, &c.

One taken upon a *Capias pro Fine*, in *Trespass*, and the Plaintiff prays, that he may remain in Prison for his Execution, the Plaintiff not satisfied shall have an Execution afterwards. So if one pray an *Elegit* of Lands, and nothing is returned but a Rent, he shall have an *Elegit* of the same. *47 E. 3. Execut. 41.* See *F. N. B. 246.* and *Stat. 32 H. 8. cap. 5.*

2. *Capias Utlagatum* is a Writ of Execution (after Judgment Cap. utlag. of the Coroner of the County, into which the Exigent and what it is. Proclamation issued) which lieth against him that is outlawed, by the which the Sheriff upon the Receipt thereof apprehend- eth the Party outlawed for not appearing upon the Exigent, and keepeth him *in salvo custodia* (*viz.*) in safe Custody.

If a *Capias Utlagatum* issued to the Sheriff to take a Party, and to enquire what Lands and Tenements he had, and the Sheriff finds by an Inquisition that he is seised of many Lands, and continues Possession in them, and the Sheriff do out me, I may have an Action of Trespass against him. *Winch. f. 78.*

Capias Utlagatum & inquiras de bonis & catalisis, is a Writ of Cap. utlag. the same Nature with the precedent, but that it giveth a & inquiras further Power to the Sheriff, over and besides the Apprehen- de bonis & catalisis, what it is. sion of his Body, to enquire also of his Goods and Chattels. *Minsb. fol. 111. B.*

3. *Capias ad Valentiam*, is a Writ of Execution, and lieth *Capias ad Valen.* what where the Tenant is impleaded of certain Lands, and he *Valen.* what voucheth to Warranty another, against whom the Summons it is. *ad Warrantizandum* hath been awarded, and the Vouchee cometh not in at the Day given: Then if the Demandant re- cover against the Tenant, he shall have this Writ against the Vouchee, and shall recover so much in Value of the Vouchee's Lands, if he have so much: And if he have not so much, then the Tenant shall have Execution by this Writ of so much Lands and Tenements as descend to him in Fee simple; or if he purchase afterwards, the Tenant shall have against him a Resummons; and if he can say nothing, he shall recover the Value. *Old Natura Breuium, fol. 161, 162. Terms of the Law,* 45, 46.

Fieri Facias, what it is.

A *Fieri Facias* is a Judicial Writ, and lieth for him that hath recovered Debt or Damage, directed to the Sheriff, commanding him to levy the Debt or Damages of the Defendant's Goods; it must be brought within the Year and Day. This Writ hath beginning from *Westm. 2. c 18. Anno 13 E. I.* *Westm 2.* *Old Nat. Br. fol. 150.* See great Diversity thereof in the Table *c. 18-13.* *E. I.* of the Register Judicial. Ver. *Fieri Facias.*

Before the Statute of 29 Car. 2 cap. 2. the Goods were lia- ble to the Execution from the *Teste* of the *Fieri Facias*, as in *Wangford's and Sexton's Case, Ley. Rep. 304.* But by this Statute no Writ of *Fieri Facias*, or other Execution shall bind the Property of the Goods against whom such Writ of Exe- cution is sued forth, but from the Time the Writ is delivered Time the Execution binds the Property of the Goods. to

Fieri Facias.

to the Sheriff, Under-Sheriff, or Coroners, to be executed. And the Sheriff, Under-Sheriff and Coroners, their Deputies and Agents, shall upon Receipt of such Execution (without Fee) indorse on the Back of the Writ the Day of the Month and Year whereon he or they received the same.

The Sheriff
must be
cautious in
executing
this Writ,
&c.

Dalt. Office
of Sheriffs,
fol. 60.

The Sheriff or Bailiff ought to be very cautious in executing this Writ; for if the Goods or Lease which shall be taken, be the Goods of a Stranger, though they be found in the Possession of the Defendant, yet if it be found upon Trial, that the Defendant hath no Property in those Goods or Chattels, then the Sheriff or Bailiff that executed that Writ, shall be a Trespasser to the right Owner of the Goods, who shall recover Damage to the Value of the Goods so taken, with Costs of Suit, although the Officer hath delivered them to the Plaintiff in Execution. *Dalton's Office of Sheriffs, fol. 60.* Therefore the safest Course for the Sheriff or Bailiff is, not to take any Goods in Execution, unless they plainly appear to them to be the proper Goods of the Defendant; for the Officer is bound at his Peril to take Knowledge whose Goods they be. *Ibid.*

If a *Fieri Facias* be awarded for 20*l.* to the Sheriff, upon which he takes an entire Chatel, and sells it for 30*l.* and returns the *Fieri Facias* with the 20*l.* in Court, he may detain the Surplusage until the Defendant comes to demand it of him; for he is not obliged to search out the Defendant; but if a *Fieri Facias* be awarded for 40*l.* by Force of which the Sheriff takes five Oxen, every one at the Value of five Pounds, and sells them all, the Defendant may have an Action of Trespass against the Sheriff. *Noy, fol. 59.* *Woody against Coles, &c.*

Sale upon a *Fieri fac.* shall stand, though Judgment be afterward reversed.

Sale by the Sheriff upon a *Fieri Facias* shall stand, albeit the Judgment afterwards was reversed, and the Plaintiff in it restored to the Value, *Dyer 363. 24. Co. 8. 76. b. Mol. Manning's Case.*

Upon a Judgment against an Executor or Administrator, the Plaintiff cannot have a *Capias ad satisfaciendum* against the Body, but a *Fieri Facias de bonis Testatoris*; and if the Plaintiff return a *Devastavit*, then a *Capias ad satisfaciendum* against the Body, or a *Fieri Facias de bonis propriis*. And if there be two Executors, and the Sheriff returns a *Devastavit* against one of them, and he dies, the other shall not be charged for that *Devastavit*; for the one shall not prejudice the other; but *&c. But if it a Devastatis be returned, then a Capias ad satisfaciendum, or a Fieri Facias de bonis propriis, &c.*

Fieri Facias.

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A *Scire Facias* after the Year for Damages recovered in After *Sci. Fa.* no *Elegit*, until the Tenants be warned; but he may have a *Fieri Facias* git lies without warning of them. 4 E. 3. 23. Execution 99. Old N. B. 168.

but a *Fi. Fa.* doth,

The Sheriff returned upon a *Fieri Facias*, *Mandavi Bailivo*, who Goods said that he had seized to the Value, but he could not find any upon Buyers; and because the Court cannot send to the Sheriff to have the Money here, as they might upon his own Return, therefore they awarded a Writ to the Sheriff to levy the Money of the Lands and Goods of the Bailiff, to the Value of that which he had seized: The same Law is upon a Seizure of an ancient Sheriff. 5 E. 3. Execution 101.

on the Goods and Lands of the Bailiff. 5 E. 3. Exec. 101.

Fieri Facias for Damages recovered in Waste upon a Lease. If no Goods for Years, it was returned, that the Lessee had no Goods but the Remnant of the same Lease; and it was holden, that by *Sicut alias*, the Sheriff might sell the Lease, as well as the Pots and Pans in Execution; for the *Fieri Facias* is *de terris & scallie*, of the Lands and Chartels, &c. 19 E. 3. Exec. 148.

A *Fieri Facias* to the Sheriff to levy the Expences of the Knights of the Parliament, the Sheriff may sell the Beasts of one of the Hundred for the whole, or the Beasts of any Person he shall find within the Precinct. 11 H. 4. 2. *Auovry* 52.

The Sheriff returned upon a *Fieri Facias* that he had levied the Money, and that he had the same in Court, whereas he had not the Money at the Day; and then a new Sheriff is chosen; and because it was upon Record, that the old Sheriff had levied the Money, a *Scire Facias* issueth forth against him to pay it; and if he cannot, or will not otherwise discharge and pay the Money, the Party shall have a *Fieri Facias*, or an *Elegit* against the Sheriff of his proper Goods, &c. 9 E. 4. 50.

Scire Facias 2.

A *Sci. Fa.* issued out against an old Sheriff after a new elected, for Money levied by him, &c. 9 E. 4. 50. Mich. *Sci. Fa.* 2.

Mich. 10. *Jac.* Upon a Motion at the Bar, it was resolved, that an Obligation to the Sheriff upon a *Fieri Facias* for the Payment of the Money in Court, was not void by the Statute of 23 H. 6. cap. 10. For the first Branch of that Statute is, that he shall let to Bail by Writ or Bill, &c. which he could not do before, as appears 19 H. 6. 43. The second shews the Form of the Bond, &c. The third contains a Penalty, that if the Sheriff take an Obligation in any other Form, &c.

Bond taken by the Sheriff not within the Stat. of 23 H. 6. c. 10. 19 H. 6. 43. Co. 10. 99. b. 3. Inst. *Bona fide* than *Cave*.

than is there prescribed, that it shall be void: So that upon Consideration of all the Branches together, and upon their Coherence and Dependance upon one another, it plainly appears, that the said Statute doth extend only to Obligations of such as are within their Guard and Custody, and not otherwise.

Where the Under-Sheriff justified the breaking of three Doors, &c. to do Execution, &c. Trespass brought for breaking his House, and breaking three Doors, and breaking and carrying away three Locks of those Doors: The Defendant justifies the Entry into the House by Virtue of a *Fieri Facias* awarded against the Plaintiff, directed to the Sheriff; and he being Under-Sheriff, and the other Defendants his Bailiffs, two of the Defendants entered into the House, and the Door being open, took the Goods, and the Plaintiff shut the Doors upon the Bailiffs, and imprisoned them for two Hours; wherefore he broke open the Doors, and the Locks, to rescue his Bailiffs, *Quia est eadem transgressio*. And it was thereupon demurred; and all the Court held, that although a Sheriff cannot break open an House, being to take Execution by a *Fieri Facias*, yet when the Door is open, that he enters, and be disturbed in his Execution by the Parties who are within the House, he may break the House to rescue his Bailiffs, and to take Execution; so that it was adjudged for the Defendants. And in regard this restraining of the Execution, and detaining of the Bailiffs, was confessed by the Demurser, an Attachment for the good Behaviour was awarded against the Plaintiff. *Cro. Part 2. fol. 555, 556.*

The Sheriff may sell a Lease for Years, or other Chattels real upon an Execution, he may seise and sell them without taking Inquest by a Jury of them, and the Sale will be good. *Cro. 5. 90. 4. 74.* And no Return is required upon a *Fieri Facias*, if Execution be done; which is grounded upon four strenuous and solid Reasons. See *Cro.* in his fifth Reports in *Hob's Case*.

Note, It was resolved by the Court, that if a *Fieri Facias* cometh to the Sheriff to levy Money upon the Goods of a Man, and the Sheriff by Writing recite, that he had a Term for Years which began 2 M. whereas in truth the Term began 3 M. and sell the same Term, the Sale is void; for that there is not any such Term: But if the Sheriff sell alio all the Interest which the Party had in the Land, the Sale is good. *26 Eliz. Sir G. Sydenham's Case* adjudged. But in the principal Case, afterwards upon looking into the Record, it was found, that the Execution was not by *Fieri Facias*, but by *Elegit*, which ought to be made by *Inquisition per Sacramentum* *12.* and not by the Sheriff: And because the Term was miscited in the Inquisition, and the Sheriff cannot sell any Term but that only which was apprized by the Jutors of the Inquest: For this Cause it was the Opinion of the whole Court, that the Sale of the Term in the principal Case was void, and Judgment given accordingly *Hill 39 E. 1o B. R. C. Part 4. 74. Palmer's Case.*

1. Because

1. Because the levying of the Debt is lawful, and well done. Four Reasons why and the Party Defendant cannot resist the Sheriff to levy the Money.

2. The Effect of the Authority the Sheriff hath, by Force of the *Fieri Facias*, is executed.

3. The great Prejudice that the Defendant (whose Goods are sold by the Writ, and Proceeds of Law for the Satisfaction of the Debt) should have, if the Sheriff's not returning of the Writ should cause a new Execution to be sued forth against him, and leave the Defendant to his Action against the Sheriff.

4. If the Sale of the Goods by Force of the Writ, shall be, for not returning the Writ, wrongfull, then the Sheriff will not find Buyers of the Defendant's Goods, by Force of any Writ of Execution; which would be very inconvenient, and great Delay of Executions, which are the Fruit and Life of every Suit; and where the Words of the Writ of *Fieri Facias* are, *Et quod habeat denarius, &c.* they are but Words of Command to the Sheriff to make Return; which if he do not, he shall be amerced, but the Execution shall stand in Force.

Levari Facias, what it is.

WE come to the seventh, which is a *Levari Facias*; and it is only to be levied upon the Profits of the Lands and Tenements, and upon the Goods of him that hath forfeited a Recognizance, &c. Reg. Orig. fol. 298. b. 300 b. but he cannot seile the Land, and deliver that to the Party by this Writ, Plow. 441. and this ought to be sued within the Year after the Day of the Payment to be made by the Recognizance, or after the Judgment; for after the Year, the Conusee or Plaintiff is now by the Statute of Westm. 2. cap. 45. to have a *Scire Facias*, whereby the Sheriff is commanded, that he give Knowledge to the Defendant, that he appear at a Day certain in the Chancery, there to shew what he can say, why he should not pay the Debt or Damages; and if he come not at the Day, or do come and can say nothing why Execution ought not to be done, then the Sheriff shall be commanded to do Execution. Fitz. 266.

Register
Original.
fol. 298.
b. 300. b.
Plow. 441.

Stat. West.
2. cap. 45.

And if the Sheriff upon this Writ return that he hath levied Part of the Sum, viz. sixteen Pounds Part thereof, which he hath delivered to the Party; now upon this Return, the

Fitz. 266.

Part of the
Sum levied
a *Sicut
alio Le-*

viri fac. may issue out for the Prejudice, Fitz. 265. b.

Party which ought to have the Money, may have a *Sicut alias Levati facias*, directed to the Sheriff to levy the Residue of the Sum. *Fitz. 265. b.*

Of Habere facias seisinam, and Habere facias possessionem.

Here are other Writs of Execution, which are necessary to be treated of, viz. *Habere facias seisinam, and Habere facias possessionem.*

Co. 6. 51. F.N.B. 265. West. 2. cap. 18. Which Executions are for Recovery of Land in a real Action; as *Ca. Sa. Fi. Fa.* and *Elegit*, are for Recovery of Debt or Damages in a personal Action. *Co. 6. 51. F. N. B. 265. West. 2. cap. 18.*

Habere facias seisinam,
what it is,
and where
it lies.

And first of the *Habere facias seisinam*, which is a Judicial Writ, and lieth where one hath recovered certain Lands in the King's Court, directed to the Sheriff, commanding him to put him in actual Seisin of that Land; which is done by delivering a Bough of a Tree, or by a Clod of the same Land in the Name of Seisin. And if the Recovery be of a House, then the Sheriff may put him in Seisin, by delivering unto him the Ring of a Door; or otherwise he may open the Door, saying to him, *Enter into the House, and take Seisin thereof by Virtue and Force of the Recovery.* *Perk. 206, 207, 208. F. N. B. 220.*

Habere facias possessionem,
what it is,
and where
it lies.

2. It is a Writ Judicial, and lieth where one was evicted from his Farm, and hath recovered it by *Ejectione firmae, or quare ejecti infra terminum*: it is directed to the Sheriff, to command him to put the Plaintiff in actual Possession of the Term again. The Sheriff in executing both these two Writs may break the House, and deliver Seisin and Possession thereof to the Plaintiff. But he cannot justify the breaking a Man's House to execute a *Ca. Sa.* or *Fi. Fa.* But where the King is a Party, there the Sheriff may justify the breaking of the House to execute his Proces, if they cannot be executed otherwise: Yet he must first request the opening of the Door, and withal signify the Cause of his coming. *F. N. B. 220, 221. Co. 5. 91. 6. 51. Dyer 278.*

F. N. B.
220, &
221. Co. 5.
91. 6. 51.
Dyer 278.

*Some select CASES which have not
been yet published in any Treatise of
this Nature, &c. concerning Returns
of Writs, where valid and good, and
where insufficient.*

THIS Word Return hath a triple Acceptation. First, as Return it is applied to the Case of a Replevin; and there it is called *Reorno Habendo*. Secondly, it is applied to the Days of Appearance in every Term. And, Thirdly, it is applied to the Sheriffs and Bailiffs, and it is that which we are determined to handle: And it is a Certificate made by the Sheriff or Bailiff to the Court from whence the Writ issued. They ought to be very diligent in making true, certain and perfect Returns, subscribing their Names to them; for if they make a false Return, the Party endamaged thereby may have an Action of the Case against him that made such Return. See *Co. 5. 9. 11. 40. and 4. 67.*

In Mich. Term 8 Jac. the Words of a Return were these, *Return of* viz. *Virtute istius brevis habibi directi, cepi corpus E. M. infra nominata Cepi corporis, cuius quidem corpus coram Dom. Reg ad diem & locum infra for one, and content. paratum babeo, prout interius mihi precipitar.* And at the *Non est* End of the Return was set *Respons. S. H.* which S. H. at the *invenitus* Time of the Return was not then Officer to the Court, or by one that to the King, and so disabled to make a Return; and therefore was not fore the Return insufficient. The Writ was directed to the Sheriff. Sheriff, and so ought the Return to have been by the Sheriff, *Balfur. Rep.* for none can make a Return of a Writ, but such a Person, *Part 1. fol. 70. Egerton* who at the Time of the Return remained an Officer to the *against* Court. If the old Sheriff be removed before the Day of the *Morgan,* Return, the new Sheriff is to make the Return: And to this and others, Purpose is the Book of 22 E. 4. fol. 33, 34. in the Case of a *Co 3. 27.* Writ of Error to reverse a false Judgment given before the *Westbie's* Mayor and Sheriffs in the Court at Coventry: and Co. 3. fol. 72. *Case.* Westbie's Case; where it is resolved, that after the Election of a new Sheriff, and before Delivery over of the Prisoners to him, they do remain in the Custody of the old Sheriff; and

after the Delivery of them over to the new Sheriff, he at the Day of the Return, ought to return *Cepi corpus*; but in this Case the Return by the new Sheriff before any Delivery over of the Prisoners to him by the old Sheriff, is no Return at all in Law. And the old Sheriff can now make no Return, he being no Officer at all to the Court, and ought to make his Answer unto the King's Writ to him directed; and he doth not here return a *Cepi corpus*, but only an Indorsement in this Manner, setting his Hand also to the Return, with this Postscript, viz. *Istud breve, prout superioris indorseatur, ego modo Vicecomis, Petrus de A. B. super Viscom. Com. mei, in causa ab officio suo;* and this upon the Matter is no Return at all. Here the new Sheriff hath made a Return, but the same is not good, being but Parcel of that which he ought to have returned. For as to the other two, his Return is, *They are not to be found within my Bailiwick;* This Return is not good; for he ought to have said, that *those two, nor either of them, were to be found.* And it is said that the old Sheriff put his Hand to the Writ; he was at that Time out of his Office, and so he was no Officer of the Court; and so it is in Effect, as if he had not put his Hand at all to the Return; and so the Return being as no Return in Law, is merely void.

Upon an *Elegit* the Sheriff returned that to be executed, and the Extent of the Church of St. Andrews, alias St. Edes; and it was prayed, that the Sheriff might amend it, and make it *Andrews* only, for that was the true Name; and the Court said that the *alias dictus* is Surplusage, and will not hurt the Return of the Writ. *Winch, Rep. fol. 37.*

A Proclamation upon the Exigent was returned by the Sheriff out of Office at the Time; upon which the Outlawry was adjudged void. *Stat. 6. H. 8. Dyer 103.*

Rescous upon a *Latitat* is no good Return; for the Sheriff might have had a *Posse Comitatus*, as well for the serving the same Process as an Execution. *10 H. 6. 26. 33 H. 6. I. 13 E. 4. 3. B. N. B. 102. Dyer 162.*

Return by one Sheriff where there are two, no good Return. If a Writ be directed to a Place where there are two Sheriffs, as *London, York, &c.* and one of them doth return the Writ, it is insufficient: For though one (according to Custom) doth execute it, yet it must be returned in both their Names. *21 Ass. 20. Br. Officer 22.*

If the Sheriff upon a *Capias ad satisfaciendum* returneth a *Cepi corpus*, and hath not the Body at the Day, &c. he is chargeable upon a *Co. s.* and hath not the Body at the Day, an Escape, &c. *Br. Rep. 107.*

able for an Escape. Or if upon a *Fieri Facias* he returneth a *Fieri faci*, and hath not the Money at the Day, &c. he is chargeable with the Money. Br. Ret. 107. Yet in all Writs of Execution, (except an *Elegit*) as upon a *Ca. si. Habere facias seisinam vel possessionem, Fieri fac. Liberare*, &c. if the Execution be duly done, although the Writ never be returned or filed, it much matters not, if the Plaintiff have his Demand; For then he hath no Cause of further Proceedings in it. But in case of an *Elegit*, because the Extent is to be made by an Inquest, and not by the Sheriff alone, that ought to be returned, otherwise it is invalid. Co. 4. 67. and 5. 90. But where no Inquest is to be taken, but only Land to be delivered, or Seisin had, or Goods to be sold, which are but Matters *in fact*, these are sufficient, although the Writ be not returned. Co. 4. 67. s.

It is no good Return for the Sheriff to say, that the Party will not pay his Fees; ergo, he did not execute the Writ. 34 H. 6. Br. Ret. 10.

In all Writs of Execution (except an *Elegit*) no Return is required. But an *Elegit* must be returned. Co. 4. 67. 5. 90.

All Sheriffs and Bailiffs who have Return of Writs, ought to set both their Names of Baptism and Surnames to their Returns. Plow. 63. 4. so that the Court may know of whom they received such Returns, if Necessity require: And this is by Force of the Statute of 12 E. 2. cap. 5. Yet by the Statute of 18 El. cap. 13. imperfect or insufficient Returns of Sheriffs are corrigible.

Upon a Replevin, if the Sheriff returns, I have commanded the Bailiff of the Liberty, &c. who will make no Deliverance, &c. these are no good Returns; for the Sheriff himself ought to have entred the Franchise, and to have made Deliverance of the Cattle, &c. Fitz. 68. f.

He shall be amerced for the Default of his Under-Sheriff, County-Clerk, or Bailiff. 38 H. 7. 13. Br. 77. 1 R. 3 cap. 4. But by the Statute of 27 H. 8. c. 24. Amerciaments for insufficient Returns of Writs made by Bailiffs of Liberties, shall be imposed upon such Bailiffs, and not upon the Sheriffs.

T. V. brought an Action of the Case against R. G. Clerk in the King's Bench, for calling him perjured Fellow, and had Judgment by *Nihil dicit*; and thereupon had a Writ of Enquiry of Damages to the Sheriff of Norfolk thus: *Præceptum est vice, quod per sacramentum duodecim proborum & legalium hominum de ballivo sua diligenter inquirat, que damna, &c.* Whereupon the Sheriff returned, *Quod mandavit J. G. ballivo libertatis Rad. Hare mil. Hundredi de Blackclose, cui execut. pred. brev. totaliter restat fienda, & quod alibi infra Com. pred. per se fieri non potuit.*

To say that the Party will not pay his Fees, no Return.

For the Sheriff to say that his Bailiff will make no Deliverance, no good Return.

He shall not be charged for insufficient Returns by Bailiffs of Liberties.

13 Jac. &
J. 12 Jac.
Ret. 252.

Qui quidem Ballivus sic sibi respondit. And so sets down an Inquisition before the Bailiff, and 40*l.* Damages. Hereupon a Writ of Error was brought in the Exchequer-Chamber, and agreed by all the Judges, that the Return was insufficient, for it was apparently untrue, and against Law, because the Writ was directed to the Sheriff himself to be executed in any Part of his Shire, and no *Venue* contained in this Inquest of Office, as there is in other Writs which intitles the Bailiffs of Liberties: But yet the Court would not reverse the Judgment, because there are divers of the like in the King's Bench and Common Pleas, especially in *Suffolk* and *Norfolk* in later Times. *Hob. Rep. fol. 83.* *Virely versus Gunston.*

Every Return ought to answer the Writ (*ad punctum*) and therefore where the Writ was, That you make known to the Heirs of the Lands and Tenements which were of A. &c. And the Sheriff returned, That he made known to B. Esq; Son and Heir of the said A. &c. which was not good, and assigned for Error, &c. because he did not return him Heir of any Lands or Tenements, as the Writ required; for his Writ was not to summon the Heir of the said A. but the Heir of the Lands and Tenements of the said A. Co. 3. 15.

Usually the Omission of Words make the Return invalid; as where the Return was, *The Residue of this Writ appears in a certain Schedule, &c. for, the Residue of the Execution of the Writ,* this is insufficient and vicious. 19 H. 6. Fitz. Ret. 14. For by 3 H. 7. 11. a. Bro. Ret. 88. the Return of the Sheriff ought to be certain to every Intent, and he is obliged to take Knowledge of the Law in making his Return: And therefore in a *Scire facias* to L. B. Master of the Free Grammar-School of Skippon, &c. and to the Scholars of the same, &c. he returned, *That be made known to the Master, &c.* And did not say, *That be made known to L. B. Master, &c.* and likewise he omitted Scholars; which Return was insufficient and void. See Co. 8. 127, 128.

10 E. 4. 15. The Sheriff upon a *Capias* returned, that he arrested the Defendant at S. and would have carried him to the Gaol, and that A. B. rescued him; which Return was holden invalid, because he did not shew at what Place A. B. made the Rescue; for it shall not be intended the Place where the Arrest was.

Note, It was holden by the Court, that the Return of the Sheriff of a Rescous made to his Bailly Errant by these Words, viz. *Virtute istius brevis, &c. mandavi Ballivo meo itineranti, &c. qui mihi sic respondit, quod arrestavit, &c.* and shewed the certain Day, Year and Place, &c. and that Rescous was made, was no good Return, because the Arrest is the proper Arrest of the Sheriff himself, and no Credit to be given to the Saying or Answer of the Baillif Errant; otherwise it is of a Baillif of a Fran-

Franchise; and in the principal Case it was holden, that if it be upon a *Capias ad satisfacendum*, or upon a *Capias Uslagatum* after Judgment, the Sheriff himself shall be charged with an Escape, except it be by the King's Enemies. *Trin. 7 El. Dyer 241.* See more largely in the French above.

The Sheriff of a County made a Warrant *Ballivis suis*, to arrest the Body of such a Man, and the Bailiffs of the Liberty returned a Rescous; Exception was taken to it, because it was *Ballivis suis*, and the Return was made by those who were not his Bailiffs; but it was adjudged that the Return was good, for that the Liberty might be within his Bailiwick. *Pascb. 15 Car. in B. R. Mart. b25.*

Where Return of Rescous made by Rebels, Enemies, &c. *7 El. Dyer 241. 33 H. 6. 1.*

By the Opinion of Jennie, 3 E. 4. If a Writ be returned thus, *The Answer of the Sheriff of C.* and sheweth not the Sheriff's Name, it is no good Return. 9 E. 4. 19. Br. 54. And by 11 H. 7. 10. a. b. the Name of the County ought to be entered in the Margin, or over the Head of the Return.

In a *Scire fac.* the Sheriff returneth, *I have made known to A. B. in Manner and Form as this Writ exalts and requires;* and said not, *to the within named A. B. &c.* and yet this was holden (*per curiam*) to be good: For note, these Words, *as the Writ exaltebat, &c.* do amount to *the within named, or the within mentioned, or written.* See 2 H. 4. 13. and 3 H. 4. 9. Br. 28. *Fitz. 44.*

Habere facias scismam upon a Grant and Render, at the Pluries the Sheriff did return *Mandati ballivo*, who did nothing because the Parties to the Fine had nothing, and the Writ of Covenant was not sued in the Liberty, nor came to him to be executed, upon which a *Non omittas* was awarded. 8 E. 3. 12. Upon the like Writ the Sheriff returned, that he could do nothing by reason of the Resistance of A. B. and others; and he was amerced twenty Marks, because he did not take *Posse Comitatus*, and an *Alias* awarded, and also a Writ to attach A. B. who was taken, and pleaded not guilty, and prayed a Writ against the Sheriff to answer his false Return. *Hill. 19 E. 2. Execus. 147.*

Waste was assigned in W. the Return must not be, *That he came unto W. but that he came to the Place wasted.* 27 H. 8. Br. 2.

No good
Return
where the
Sheriff's
Name is
wanting.

9 E. 4. 19.
Br. 54. 11.
H. 7. 10.
a. b.

8 E. 3. 12.
Hill. 19. E.
2. Exec. 147.

What Re-
turn upon
Waste
good, and
what is not.

The Sheriff returned, *That by Virtue of a Precept, &c. he took Return of the Body of A. B. &c.* and Exception was taken, because the a Precept Return was not, by Virtue of a Writ, &c. yet it was holden to *be good.*

be a sufficient Return; for the Sheriff may take one in *Westminster-Hall* by the Mandate of the Justices without any Writ.

No good
Return.
Fitz. 19.

A Return
by the She-
riff in the
third Per-
son, no
good Re-
turn.
Return
amended.

False Im-
prisonment
lies against
the Sheriff
for not re-
turning a
Capias in
Process, &c.
But other-
wise in a
C. s. &c.
Co. s. 90.

In a *Scire
fac. &c.*
the Sheriff
must re-
turn the
Names of
the Sum-
moners, &c.

The Sheriff returned, *I have not found the Party, &c. for, he is not to be found*; and the Party thereupon outlawed, amerced this for Error, and not to be amended. Fitz. 19.

The Sheriff returned, *That he hath commanded the Baillif of Slainecliffe, in the third Person; for, I have commanded the Baillif, &c. in the first Person, and was amerced for it.* 21. *Ass. 17.*

Habens corpus was returned, *Bartbol. miles vic. and Michael,* which was the Sheriff's Surname omitted, and it was amended by Rule. *Hob. Rep. Kent versus Hall, fol. 413.*

If a Sheriff do not return a *Capias* in Process, the Arrest is tortious, and an Action of False Imprisonment lieth against him by him that was arrested; and likewise the Plaintiff shall have an Action against him. *Litt. 18 E. 4. 9. Br. Trespass 339. Br. False Imprisonment, 5. 7. & 12.* But if a *Capias ad satisfac-* be not returned, it is sufficient, if the Execution be duly executed, and the Plaintiff satisfied; yet if he levy the Money or Debt, but neither returneth the Writ, nor payeth the Money to the Plaintiff, he is chargeable to the Plaintiff in an Action of Account, &c. and to the Defendant in an Action of Trespass. *Co. 5. 90.* and the Plaintiff may have his Execution renewed against the Defendant, and the Defendant is left to his Action against the Sheriff.

Where a Man hath Liberty to return Writs, (as in the Honour of Pontefract in Yorkshire, &c.) and to execute them, &c. if there the Sheriff, or his Officer, shall enter the Liberty, and execute any Process there, the Lord of the Liberty shall have an Action of the Case against him. *Fitz. Nat. Br. 95. b.*

In a *Scire fac.* to execute a Judgment or Fine, the Sheriff must return the Names of the Summoners. *3 H. 7. 8. Br. Ret. 86.*

Upon the Return of a Jury, he is to return Issues upon every Person impanelled, and returned by him. *Ibid.*

The Sheriff may take in such a strong Place, that he could not make Deliverance: For which Return he was amerced, because he might have taken *Posse Comitatus*, and so made Deliverance. *Br. 119.* or if he should return a Resistance, the like. *13 E. 3. 39.*

In a *Scire fac.* against the Husband and Wife, the Sheriff returneth that they are divorced, and therefore amerced; for and his Wite, to say they are divorced, no good Return.

Persons that are divorced may have Garnishment. *Quere,* &
vide 1 H. 6. 2. Br. 63.

Upon a *Fieri fac.* against Executors, the Sheriff returneth, A *fi. fa.*
that they had sold the Goods of the Party deceased before the
Writ purchased, &c. for which he was amerced; for he
should have taken other Goods of the Executors, to the Va-
lue thereof, &c. 14 H. 4. 12 Br. 41.

against
Executors,
no good
Return to
say the
Goods
were sold, before the Writ purchased.

Upon a *Fieri fac.* against Executors, the Sheriff returned Nulla bona
nulla bona, &c. and upon this Return an Entry was made in
the Roll, because that *testatum est*, that the Executors had sold
divers Goods of the Testator's, and converted the Money to
their own Use; a Writ was awarded to the Sheriff, to en-
quire by the Oaths of good Men of his Bailiwick what Goods
(which were the Testator's the Day of his Death) were wasted
by the Executors; by Force of which Writ the Sheriff had
an Inquisition, by which it was found, that divers Goods of
the Testator's, to the Value of the Debt recovered, were
wasted by the Executors: And this was returned in Court;
upon which the Plaintiff sued a *Scire facias* against the Defen-
dant, to shew Cause wherefore the Execution should not be
awarded against the Defendant of his own proper Goods; and
upon two *Nibils* the Court awarded Execution. C. 5. 32.

Execution of a Writ of Execution, as well at the Suit of a common Person, as at the King's Suit, is good without Return of the Writ: For if a Man be arrested upon a *Capias ad satisfaciendum*, the Execution is good, although the Sheriff do not return the Writ: And so in Writs of Execution, where the Sheriff only executes the same, as *Capias ad satisfaciendum*, *Habere fac. seismam vel possessionem*, *Fieri fac. Liberare*, if the Execution be duly made, it is good; but if *Capias in Proces*s be not returned, the Arrest is not lawful; for there the Intent of the Writ is, to bring the Party to answer the Plaintiff; and in Case of an *Elegit*, for there the Extent is to be made by Inquest, and not by the Sheriff only; and the Writ ought to be returned, otherwise it is of no Effect. In this Case it was resolved, that when one hath a Power of Revocation, yet if he suffer any Thing to be lawfully executed, as touching that, he cannot make any Revocation: As if a Man make a Letter of Attorney to another to do any Thing, before Execution he may revoke it; but after Execution lawfully done, it cannot be revoked: If one to whom another is indebted be outlawed, and he that oweth the Money payeth it to the King, and the Outlawry is after reversed, yet the Creditor shall recover his Debt against the Party. If the Goods of an outlawed Person be sold by the Sheriff upon a *Capias Utlagatum*, and after the Outlawry is reversed by Error, the Defendant shall

shall have Restitution of his Goods ; for the Sheriff or Escheator, is not compellable to sell the Goods, but he may keep them to the Use of the King, agreeing to the Book, 20 Eliz. Dyer 363. But if a Sheriff by Virtue of a *Fieri fac.* sell the Goods, and after the Judgment be reversed by Error, the Defendant shall not have Restitution of the Goods, but the Value of them for which they were sold : And the Reason is, the Sheriff is compellable to levy the Debt of the Goods of the Defendant ; and therefore great Reason that the Sale should stand. Co. s. Part 89. Hob's Case.

An Outlawry returned in London in these Words: *At the Hustings holden in Guildhall in the City of London, (such a Day) A. B. exacted was, and appeared not: This is no good Return; because there are two Hustings in London, the one of Common Pleas, the other is of Pleas of Land; and therefore in such Case the Return must be, At the Hustings of the Common Pleas, &c. otherwise it is invalid, for that the same may have double Intendment.*

The County omitted in the Return of an Exigent, erroneous.

If the Sheriff return, that the Party hath rendred himself upon the Exigent, and hath not the Body, he shall be amerced, the Party hath rendred himself, and not so, not good.

Cepi corp. If the Sheriff return a *Cepi corpus* upon a *Capias ad satisfac-*
upon a *C.s.* and hath not the Body, he shall not only be amerced, but
sa. and not the Plaintiff may have his Action against the Sheriff for an
so, erro- Escape, for so he is concluded by his Return. *Br. Rul.* 107. 10
neous.

If upon Process against the Husband and Wife, the Sheriff returns that he hath taken them, and the Husband appears at the Day, but not the Wife, the Sheriff shall be amerced, and the Wife appears not at the Day, nor good cause had, and the Sheriff shall be amerced.

Upon a Writ to enquire of Damages, the Sheriff returneth, that the Inquest or Jury, gave or found no Damages, the Sheriff shall not be amerced for this Default of the Jury; Damages, and shall receive a day's wages for his Return of no Damages, no hurt to the Sheriff, and why? Or, adde dñe p[ro]p[ri]etate

for the Sheriff is but amerced where he returneth the Writ fally or insufficiently of himself, whereas here he returned it as the Jury had presented it. 44 E. 3. 3. Br. 20.

If the Sheriff in a Writ of Account or Debt, shall return upon one, *that he is not found, nor hath Lands, &c. by which he may be distrained, &c.* whereupon a *Capias* is awarded against him, and he thereupon taken, whereas he had sufficient Lands, or Goods or Chattels; then the Party may have his Action upon the Case against the Sheriff (directed to the Coroners) for such false Return.

Upon Ac-
count or
Debt,
where the
Sheriff re-
turns no
Lands
found, &c.
and he had
not good.

Lands, &c.

It is not good to return upon a Replevin, that there is no such Goods or Chattels. 5 H. 7. 27. Or in a Writ to deliver Goods upon a Detinne, it is insufficient to say, that there are no such Goods. Or upon an *Habere fac. Seisinam*. that there is no such Lands. *Ibid.*

To say up-
on a Re-
plevin that
there is no
Goods, &c.
not good.
The like
Seisinam.

in Detinue, &c. Or upon *Habere fac.*

A. and his Wife Demandants against I. S. in Dower of a Freehold in *Munden magna*, *Munden parva*; and D. the Sheriff returned, *Pleg. de prolequend. I. D. R. R.* and the Names of the Summoners, *I. D. R. F.* and after the Summons made, and by the Space of fourteen Days, and more, before the Return of the Writ, at the most usual Door of the Church of *Munden magna*, where Part of the Tenements lay, upon the 27th of October, being the Lord's-day, immediately after Service ended in that Church, he publickly proclaimed *all and singular Things contained in that Writ*, to be proclaimed according to the Form of the Statute in that Behalf made and provided. Exception was taken to the Return, because that Proclamation was not made at the Doors of the Churches where the Land lay; but it was sufficient to make Proclamation at any of the Churches, by the Opinion of the Court: But because he said, he had caused to be proclaimed *all and singular in the Writ contained*; it was holden, that the Return was insufficient, because he did not express what. Hill. 13 Jac. C. B. Allen and Walter's Case. Brownl. Part 1. 127.

Upon an *Habere facias Seisinam*, in a Writ of Dower of the third Part, the Sheriff returned, that he offered to the Demandants the Seisin of the third Part of the Tenements afore-said, and shewed to the Parties what made the third Part by Meets and Bounds in certain, according to the Tenor of the Writ; and they refused to receive them of him. It was the Opinion of the Justices, that the Entry of the Demandants was now lawful; and although Exception was taken to the

Habere fac.
Seisinam
Dower.
Return.

Return,

Return of Writs.

Return, that it was uncertain, and not good for Repugnancy, yet upon the Return being read and viewed, was allowed to be good; and the Court refused to award an *Habere facias Scire faciam de novo*; for that they said would be a new Precedent, the like of which was not seen. *Mich. 11 Eliz. Dyer 278.*

Upon an *Extendi facias*, upon a Statute-Staple out of the Chancery, the Sheriff extended the Lands of the Defendant, and he prized the Goods, and seized them into the King's Hand, according to the Writ, but did not deliver them. Afterwards, a Writ of Prerogative came out of the Exchequer, commanding the Sheriff to levy 100*l.* which the Defendant owed the Queen upon his Goods; and if he had not sufficient Goods, then to extend the Lands: which Writ was delivered to the Sheriff after the Day of the Return of the first Writ; but the first Writ was not returned, and the Sheriff returned the whole Matter aforesaid into the Exchequer: And the Sheriff was amerced for making such special Return, and was forced to execute the Writ of Prerogative; for it was holden by the Court, that until a *Liberate*, no Property was in the Conusee: But it was said, that the Goods being seised into the Hands of the King for the Use of the Party, they were privileged from all other Executions, but that of the King only. *Mich. 3 E. 6. Dyer 67. Stringfellow's Case.*

Note. It was resolved and adjudged, that when Judgment is given against Executors, and upon the *Fieri facit*, the Sheriff returns *nulla bona*, that the Plaintiff may have a special Writ of *Fieri facit scilicet*. That the Sheriff levy the Debt of the Goods of the Deceased; *Et si sibi constare poterit* that the Executors have wasted the Goods, then of their own Goods, because that in such a Case, if the Sheriff make a false Return, the Party may have his Remedy by an Action upon the Case. *ibid. Part 5. 39. Pettifer's Case.*

Matthew Herbert acknowledged a Recognizance to the King of 3000*l.* and died; after his Death, a *Scire facit* issued forth against the Executors *Testamenti & ultime voluntatis pred. Matthei & hered. terrarum & tenementorum que sua fuerunt*; and at the Day the Sheriff returned, that he had not Executors; but *Scire feci Willielmo Herbi Militi & hered. dict. Matthei quod sit, &c.* William made Default, and Judgment upon that Default was given for the King, *quod recuperet versus dict. Will. Herbi, &c.* And thereupon Error was brought, and three Errors assigned. 1. That the *Scire facit* was *hered. terrarum & tenementorum*; which was improper, and against Law: always one is said Heir to his Ancestor, and not to the Land; and it cannot be said that he is *filius*, or *coasanguineus*, & *heres Matthei de D.* 2. Admitting the Writ good, then forasmuch as the Writ requireth, *quod Scire facias hered. terrarum & tenementorum, &c.* And the Return of the Sheriff, *quod Willielmo Herbi Militi fil. & hered. pred. Matthei*, is not good,

because he doth not return him Heir of any Lands or Tenements; for his Warrant is not to summon the Heir of the said *Marsber*, but the Heir of the Lands and Tenements of the said *Marsber*, and each Return ought to answer the Point of the Writ. 3. Admitting the Writ and the Return good, yet the Judgment was not good, because it was general, where it ought to have been special, for by such Judgment his own Lands should be charged: But these Points were not resolved by the Court. *Co. 3 Part, 15.* Sir *William Herbert's Case.*

If the Sheriff return upon any Person, I have taken the Body of, &c. or be hath rendred himself, &c. the Sheriff shall be charged to have the Bodies of the said Persons at the Day of the Returns, or the Writ of Precept, &c. 23 H. 6. cap. 10. And so was the pristine Common Law of this Nation.

If the Sheriff return
Cepi corp.
he shall be
chargeable
with the

Body at the Day of the Return.

Return of Writs.

Intra nominat. A. B. non est invent. in balliva mea.

R. S. Ar. Vic.

The Re-
turn of a
*Non est in-
ventus.*

Virtute hujus brevis cepi corpus infra nominat. A. B. cuius corpus coram Justic. infra mentionat. ad diem & locum infra content. parat. habeo, prout interius mibi precipitur.

R. S. Ar. Vic.

The Re-
turn of a
Cepi corpus
in the
Common
Pleas.

Infra nominat. A. B. C. D. & E. F. non sunt invent. in balliva mea neq. eorum aliquis est invent. in eadem.

R. S. A. Vic.

Virtute hujus brevis cepi corpus infra nominat. A. B. cuius corp. coram Dom. Rege ad diem & locum infra content. parat. habeo, &c. prout interius mibi precipitur.

R. S. Ar. Vic.

The Re-
turn of a
cepi corpus
in the
King's
Bench.

Virtute hujus brevis. cepi corp. infra nominat. A. B. cuius corp. cor. Justic. infra mentionat. ad diem & locum infra mentionat. parat. habeo, prout interius mibi precipitur: & ulterius certifico ejsd. Justic. quod ceter. defend. non sunt invent. in balliva mea.

R. S. Ar. Vic.

The Re-
turn of a
Cepi corpus
and Non est
inventus.

Virtute

Return of Writs.

The Re-
turn of a
Cepi corpus
& *langui-
dus in pri-
sons.*

Virtute istius brevis copi corp. infra nominat. A. B. cuius corp. adeo languid. debile & infirmum in prisone sub custodia mea remanet, quod ob met. mort. ejusd. A. B. corpus ejus coram Justic. infra mentionat. ad diem & locum interius content. habere non possum, prout per hoc breve mibi precipitur.

R. S. Ar. Vic.

The Re-
turn of a
Mandans
*bailivo li-
bertatis,*
where the
Bailiff
maketh no

Return of the Sheriff's Warrant, or where he makes an insufficient Return.

And also
where he
returneth
to the She-
riff he hath
taken the

Body; and
the like, in case the Bailiff returneth a *languidns in prisone*,

But if the Bailiff of the Liberty return, that he hath taken the Body of C. D. then thus, scil. qui mibi respondit quod cepit corpus infra nominat. C. D. cuius corpus cor. Justic. interius mentionat. ad diem & locum infra content. parat. habet, prout per hoc breve precipitur.

R. S. Ar. Vic.

The Re-
turn of a
Scire fac.
where a
Scire fac.
is returned.

Virtute bujus brevis mibi directi, per T. G. & I. H. probos & legales homines de balliva mea scire feci infra nominat. A. B. quod sit coram Justic. interius mentionat. ad diem & locum infra content. ad ostend. &c. prout interius mibi precipitur.

R. S. Ar. Vic.

The Re-
turn of a
Nihil to a
Scire fac.

Infra nominat. A. B. nihil habet in balliva mea per quod ei scire facere possum, neque est invent. in ead.

R. S. Ar. Vic.

Return
Scire fac.
for one,
and *Nihil*
for the
other.

Virtute bujus brevis mibi directi per T. G. & I. H. probos & legales homines de balliva mea, scire feci infra nominat. A. B. quod sit coram Justic. infra mentionat. ad diem & locum interius content. ad ostend. &c. prout interius mibi precipitur: & ulterius certifico eisdem Justic. quod alter defend. nihil habet in balliva mea per quod ei scire facere possum, neque est inventus in eadem.

R. S. Ar. Vic.

The Re-
turn of an
Attach-
ment and
Proclam.
in Chan-
cery.

Infra. nominat. A. B. non est invent. in balliva mea in omnibus locis in balliva mea, tam infra libertates, quam extra, publice proclamari feci quod infra nominat. A. B. personalit. compareat coram Dom. Rege in Cancellor. sua infrascripti, ad diem & locum infra content, ad repondend.

Return of Writs.

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Spondend. Dom. Regi de quodam contemptu, & ulcerius ad faciend. &
recipiend. quod eid. Cur. in hac parte videtur expediens, prous per hoc
breve mibi precipitur.

R. S. Ar. Vic.

Infra nominat. A. B. nihil habet in balliva mea per quod attachi- A Nihil re-
ari potest. turned of a
Ven. fac.

R. S. Ar. Vic. upon an
Indictmenc,
Presentment or Information,

Infra nominat. A. B. attach. est per pleg. Johan. Doe, & Rich. A Sum-
mons re-
Roe. turned of the like.

R. S. Ar. Vic. the like.

Manuscript. infra nominat. A. B.

Johannes Doe,
&
Richardus Roe.
Exit. ——— IO s.

The Re-
turn of a
Distringas
super Vic.
or balliv.

R. S. Ar. Vic.

Executio istius brevis patet in quadam panell. huic brevi annex.

R. S. Ar. Vic. The Re-
turn of a
Ven. fac.
jur.

Nomina Jurat. inter A. B. quer. & C. D. def. de placito transgr. The Pa-
F. F. de G. Gen. nel.

H. I. de eadem.

K. L. de M.

And so to the Number of 24.

Quilibet Jurator. pred. per se separatim attacbiat. est

per pleg. { Johannem Doe,
&
Richardum Roe,

R. S. Ar. Vic.

Executio istius brevis patet in quadam panell. huic brevi annex.

R. S. Ar. Vic. The Re-
turn of a
Distringas
or a Hab.
corp. jure

Nomina Jurat. inter A. B. quer. & C. D. def. de placito transgr.
E. E. de G. Gen.

A. I. de eadem.

K. L. de M.

And so to the Number of 24.

N

Qui?

Return of Writs.

Quilibet jurat per se separatum attachiat. &

per pleg. S. Johannem Doe,

& Richardum Roe,

Ex. eorum cuiuslibet x s.

R. S. Ar. Vic.

The Rec. Ad Com. meum N. tent. apud L. in dicto Com. octavo die Jan. anno Regni Dom. Regis infra script. xiv. infra nominat. A. B. C. D. & E. F. primo exalt. fuer. & non comparuer. nec aliquis eor. comparuit; & ad Com. meum ibid. tent. primo die Februarii, anno xiv Regis pred. secundo exact. fuer. & non comparuit. nec aliquis eor. comparuit; & ad Com. meum ibid. tent. primo die Marcii anno supradictio tertio exalt. himself, the fuar. & non comparuer. nec aliquis eor. comparuit; & ad Com. meum ibid. tent. secundo die Aprilis anno ult. pred. quarto exact. fuer. & non comparuer. nec aliquis eor. comparuit; & ad Com. meum ibid. tent. primo die Maii anno xiv ult. pred. quinto exact. fuer. pred. A. B. protulit mihi breve Dom. Regis Supersed. & est huic brevi annex. adeo versa etat. A. B. ulterius procedere non potui: & pred. C. D. se reddit in myndiam meam, cusus corp. coram Justic. infra script. ad diem & locum infra content. parat. baboo, prout interius mibi prescripitur: & A pred. E. F. non comparuit: ideo per Judic. I. K. & L. M. Gen. Coron. Dom. Regis Com. pred. pred. E. F. utlag. est.

R. S. Ar. Vic.

The Rec. Ad com. meum N. tent. apud L. in Com. N. primo die Februarii, anno Regni Dom. Regis infra script. xiv. & ad Generalem Sessionem pacis tent. apud G. in Com. pred. xx die Aprilis anno supradictio. & maxime usuale ostium Ecclesie Parochialis de B. infra script. super dictum Dominicum scilicet, x diem Aprilis anno xiv Regis pred. publice proclamat feci, prout interius mibi praecipitur. & lo redim. est or of hia A

R. S. Ar. Vic.

Ad Com. meum tent. apud Castrum Ebor. in Com. Ebore die Mercurii scilicet x die M. anno infra scripto. Iuramento proclamat. feci. Et ad maxime usuale ostium Ecclesie Parochialis ubi sunt legales defendend. infra nominat. inhabitant. super die Dominico scilicet quinto die Jan. ann. supradicti. anniversario post dominum feruulum in eadem secundum proclamat. feci. Et ad Generalem Sessionem pacis tent. apud Beverley in Com. predicto tertiam proclamat. feci prout istud breve in se exigit.

J. A. Baronettus Vic.

Return of Virtute istius brevis mihi direct. in pleno Com. meo tent apud Castrum Ebor. ii die Aprilis anno, &c. in Com. pred. ex assensa ejusdem Com. loco infra nominat. T. W. eligit feci G. H. de R. in Com. predicto generosum unum Coronatorem qui quidem Georgius eodem die in pleno

Return of Writs.

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pleno Com. predicto præstisit Sacramentum suum prout mortis est secund. formam & effectum busus brevis ea facere & conservare quæ ad officium Coronarii pertinent faciend. & exequendum in Com. predicto prout idem breve in se exigit & requirit;

T. C. Ar. Vic.

Allocat. His quatuor Com. ad quos infra nominat. A. B. C. D. & E. F. quarto exact. fuer. & non comparuer. nunc ad Com. meum N. tent. apud L. in dicto Com. N. pred. A. B. C. D. & E. F. quinto exact. fuer. & non comparuer. ideo per judic. I. R. & L. M. Gen. pred. Villagat. sunt, & quilibet eorum Villagat. est.

The Return of an Allocat.

R. S. Ar. Vic.

Istud breve adeo tarde mibi deliberat. fuit, quod propter tempor. Return of brevitatem execution. inde facere non potui, prout interius mibi practi- a Tard.

R. S. Ar. Vic.

Et quia non fuit aliqua Curia Com. predicti, dum Vic. ejusdem Com. remansit ideo ad ultorem prosecutionem istius brevis procedere non potui.

When the Sheriff is removed.

A. B. Ar. Vic.

Infra nominat. A. B. capt. fuit per R. C. Mil. Baronet. super Vic. Com. mei N. & non per me modo Vic. ejusdem Com.

R. S. Ar. Vic.

Virtute istius brevis mihi direct. posui coram Justic. infra specificat. ad diem & locum interius content. loquel. que est in Com. meo per breve dict. Dom. Regis inter infra nominat. partes sub sigillis A. B. C. D. E. F. & G. H. quatuor legales homines Com. met qui Recordo illo inserfuer. prout patet in quadam Schedula huic brevi annex. & scire fesi infra nominat. I. K. quod adiuncto ibid. parat. sit ad prosecuend. loquel. inde versus infra nominat. T. W. ac etiam habeo ibidem aliud breve huic brevi & Schedula annex.

The Return of Hab. corp. where the Defendant was taken by a former Sheriff.

The Return of a Pone.

I. G. Ar. Vic.

S. ff. Ad Com. meum tent. apud L. in dicto Com. meo xi die anno Regni dict. Dom. Regis xiv.

The Schedule.

ff. I. R. queritur versus T. W. de placito debitii.

I. G. Ar. Vic.

Virtute istius brevis, per C. D. & F. G. probos & legales homines de babilonia mea, scire feci infra nominat. L. S. I. L. &c. quod sunt coram dicto Dom. Rego ad diem & locum infra content. ad ostend. Sec. quare.

Return of a Scire fact. for the Release of Prisoners.

Return of Writs.

Return of
a Nihil to
Scire fac.
against the
Heir and
Tertenants

Infra nominat. G. S. nihil habet in balliva mea per quod ei scire facere possum, neq; est invent. in eadem, neque sunt ulli tenentes, sive ulla tenens aliquarum terrarum sive tenementorum que fuer. infra nominat. W. super diem infra script. judicij infra reddit, vel unquam posita in balliva mea, quibus scire facere potui, prout breve illud exigit.

G. Ar. Vic.

The Re-
turn of a
Summons
in Dower,

Pleg. de prosequend. Jo. Doe,
&
Rich. Roe.

Summon. infra nominat. Anth. Sharp,
A: B.
&
Rich. Sharp.

Et ad maxime usual. ostium Ecclesie Parochial. de D. ubi infra nominat. A. B. inhabitat, super diem Dominic. scilicet, quartum diem Junii anno infra script. immediate post celebration. divin. servic. in eadem Ecclesia fuit, publice proclamati feci, secundum formam Statuti, &c.

R. S. Ar. Vic.

The Re-
turn of a
Grand Cape
in Dower.

Virtute istius brevis mibi direct. xxvi die Aprilis anno infra script. cepi in man. dict. Dom. Regis per vis. H. R. & T. R. program & legalium hominum de balliva mea, tertiam partem messuag. terrarum & tenementorum infra mentionat. cum pertin. prout interius precipitatur.

Summon. infra nominat. Jo. Den,
A. B.
&
Rich. Fen.

R. S. Ar. Vic.

Pleg. de prose- Jo. Doe,
quend. &
Rich. Roe.

The Re-
turn of a
Summons
upon an
Original
against an
Heir.

Summon. infra nominat. A. B. I. W.
fil. & hered. A. B. &
S. E. W.

R. S. Ar. Vic.

Vixit istius brevis deliberari feci eidem A. B. possessionem suam termin. infra specificat. de messuag. terris & tenementis infra specific. fac. posses. Ac etiam cepi corpus infra nominat. C. D. cuius corpus coram Jus. & cap. infra script. ad diem & locum interius content. parat. habeo, prout interius precipitatur.

And

with Costs.

And where the Defendant is not found, then close thus:

*Ut ulterius certifico Justiciar. infra specificat. quod infra nominat.
C. D. non est invent. in balliva mea.*

R. S. Ar. Vic.

Virtute istius brevis mihi direct. immediate post receptionem ejusdem infra nominat. T. F. in plenam & pacificam possessionem & seipsum a Writ of Messuagii & terrarum infra specificat. cum pertinent. restitu & im- Restitution posui prout interius, &c.

A. S. Ar. Vic.

Virtute bujus brevis deliberavi infra nominat. I. G. Maneria, Messuag. Parc. Bosc. ac omnia & singular. terr. & tenementa cum pertin. infra mentionat. habend. sibi & assign. suis tanquam liberum tenement. suum quoisque plenar. satisfact. erit de debito infra mentionat. cum damnis, misis & custag. rationabiliter sustent. prout per istud breve precipitur. Et ulterius certifico dicto Dom. Regi, quod infra nominat. R. W. non est invent. in balliva mea.

R. S. Ar. Vic.

The Re-
turn of a
Liberate
out of
Chancery.

Virtute istius brevis mibi direct. in forma infrascript. in plena Curia recordari feci loquela infra mentionat. & Recordum illud prout patet in Schedul. huic brevi annex. coram Justiciar. infrascript. ad diem & locum interius content. parat. habeo sub sigillo meo & sigillis R. C. M. C. T. Y. & R. E. quatuor proborum & legalium hominum de balliva mea, ex illis qui Recorde ill. interfuer. & partibus infra script. diem illum praefixi, quod tunc sint ibi parat. in loquela illa pro ut justum fuerit prosecutur. secundum exigent. istius brevis.

R. S. Ar. Vic.

The Re-
turn of an
Accedens ad
Curiam.

*B. ff. Apud Cur. Hundred. de B. tent. apud G. xii die A. anno Regni dict. Dom. Regis xlii in eodem Hundred. coram I. K. & L. M. liberis scelatoribus ejusdem Hundredi.
B. ff. A. B. queritur versus C. D. de placito captionis & injustice detentioonis honor. & catullor.*

R. S. Ar. Vic.

The Sche-
dule.

Virtute istius brevis mibi direct. in pleno Com. meo N. tent. apud N. in Com. meo predicto xii die A. anno Regni dict. Dom. Regis xiv, recordari feci loquel. int. partes infrascript. (unde infra fit mentio) que loquel. patet in quadam schedula huic brevi annex. & record. illud coram Justic. infra mentionat. ad diem & locum infra content. parat. habeo, sub sigillo meo, & sigillis W. H. H. L. I. B. & T. C. quatuor legalium liberorum tenentium ejusdem Com. ex illis qui recordo ill. interfuer. & partibus infrascript. diem ill. praefixi, quod tunc

The Re-
turn of a
Re. feso.

sint ibi parat. in loquel. illa prout justum fuerit prosecutur. prout istud breve in se exigit.

R. S. Ar. Vic.

The Schedule.

N. s. Ad Com. meum rent. apud L. infra Com. xii die Aprilis anno Regni dict. Dom. Regis xiv, coram I. G. H. K. liberis tenentibus ejusdem Com. int. al. sic continetur.

N. s. E. L queritur versus E. S. de placito captionis & injuste detentionis aterior. suor.

R. S. Ar. Vic.

Return
#veria
elongata.
and Cepi
corpus for
Damages.

Ante advent. istius brevi. equa infra mentionat. per infra nominat. G. H. elongata fuit ad loca mibi incognit. ita quod equam pred infra- script. I. H. & H. return. non potui scire interius mibi precipit. & ulteriorum infra mentionat. Justiciar. certifico. quod virtute istius brevis cepi corpus infra nominat. G. H. cuius corp. cor. dict. Justiciar. ad diem & locum infra contens. parat. habeo. prout interius mibi precipit.

R. S. Ar. Vic.

The Writ.

Presentio istius brevis patet in quadam Schedula huic brevi annex.

R. S. Ar. Vic.

The Schedule.

The Return of a
Rescous.

The Custody of
my said
Bailliff.

Virtute istius brevis mibi direct. & huic brevi annex. quodd. War- rant. feci eidam W. R. ballivo meo ad arrestand. & capiend. I. S. in dicto brevi nominat. qui quidem ballivum mens virtute Warrant. mei pred. xi die Februarii anno Regni Dom. Regis infrascript. XIV. quid B. in Com. meo arrestauit. & cepit corpus pred. I. S. prout per War- rant. meum praecepit; & eodem Saban. sic arrestat. caption. & in custod. ut praedicitur. sub. pred. arrestat. existent. quidam G. S. de B. pred. simul cum pred. I. S. vi & armis. videlicet. gladius. baculus & cul- tellus in ipsum pred. W. R. ball. meum adiunq. & ibidem insult. fecer. & ipsum verbaver. vulneraver. & malestrassever. ita quod de vita ejus desperabatur; & pred. G. S. ipsum I. S. sic ut praedicitur sub pred. arrestat. existent. adiunc & ibidem extra custodium meum ce- pit & rescessit. & ad sui juris ad burgum ire permisit; & idem I. S. fuit pred. sub arrestat. existent. extra custod. meum similiter vi & ar- mis adiunc & ibidem seipsum rescessit. contra pacem dict. Dom. Regis; &c. Et postea idem I. S. non est invent. in balliva mea.

R. S. Ar. Vic.

Return
nulla bona
super Ecri
juc.

Infra nominatus I. F. nulla habet terras seu catalla in balliva mea unde debitum & damna infrascript. seu aliquam inde parcellam fieri facere possum.

I. A. Ar. Vic.

Anse

Ante adventum istius brevis mibi direct. avaria inframentionat. elongat. fuerunt per infranominat. T. R. ad loca mibi ignota, per quod averia illa infranominat. H. return. non potui. & pred. T. non est invent. in ballio meo.

Return
brevis de
Reson.
Habend.
quod averia
elongat.

T. R. Ar. Vic.

*Virtute istius brevis mibi direct. capi in Witherham quatuor boves Return in
Ex duas vacas de averis infranominat. I. P. ad valent. anterioram Withernam.
ejusdem E. infrascript. prius capt. & ea prefato P. deliberari feci
Salvo Ex secur. sibi custodiend. quonquis pred. P. averia sua per pred.
I. & N. prius capt. ejusdem I. & N. return. volvis jacto formam &
effectum basius brevis & ulterius Justic. infrascript. certifico quod infra-
nominat. N. nichil habet in ballio meo per quod attacab. pef.*

{ E. Mitchell,
summon. inframentionat. { Johannes Den,
Richardus Fen.

*Et quod summon. pred. Thome Wikes Justiciarii infrascript. cer- Abrogat
tifico quod idem Thomas & ego Thomas Wikes jam unus Vicecom. agamit
Civitatis inframentionatae sum unus & idem & non aliis neque diversi Mabel and
ideo ego prefatus Thomas & Hugo Hyde alter Vic. Civitatis pred. Myken
meipsum secundum exigentiam istius brevis sum. non possumus dispons. Anders.
present.* Rep. part 1.
fol. 10.

Thos Wikes,
&
Hugonis Hyde. } Vic.

the Defendant Wykes was then one of the Sheriffs, and this upon
judged a good Return.

Return of
a Writ of
false Judg-
ment.

{ Johannes Den,
Pleg. de praesequendo { Richardus Fen,

*Virtute istius brevis mibi direct. ad Com. meum Ebor. tunc. apud
Castrum Ebor. in Com. Ebor. (die) anno infrascript. in pleno Com.
meo recordari feci loquelam que fuit in eodem Com. sine brevi Domini
Regis inter partes infrascript. in placito inframentional. & recordum
illud coram Justiciar. infrascript. ad diem & locum inframencion. po-
rat. habeo sub sigillo meo & par A. B. &c. quatuor legatos milit. ejus-
dem Com. ex illis qui recordo illo interfuer. prout istud breve in se
exigit & requirit que quidem loquela patet in quadam schedula huius
brevis annex. summon. &c.*

The Return of a Devastavit.

EGO R. S. Vic. Com. infra nom. Justiciar. infra mentionat. certifico quod infra nominat. A. B. ante advent. istius brevis devastavit, & ad usum suum proprium convertit diversa bona & catalla, qua fuer. infra nominat. F. G. tempore mortis sue, ad valene. debiti & dampnor. infra specificat. & que ad man. & possession. ipius A. B. Executor. ejusdem F. G. Administr. devenerunt, ita quod debitum & damna pred. vel aliquam inde parcellam de bonis & catallis pred. Testator. prefat. F. G. levare seu fieri facere non potui; & ulterius certifico Justiciar. pred. quod infra nominat. A. B. nulla habet bona seu catalla de bonis & catallis suis propriis in balliva mea, unde damna pred. fieri facere possim.

R. S. Ar. Vic.

The Return of a Nulla bona
& de-
stavit by
Inquisition.

Infra nominat. A. B. nulla habet bona seu catalla que fuer. infra nominat. C. D. tempore mortis sue in manibus suis administrand. in balliva mea, unde fieri facere possum debitum & damna infra mentionat. vel aliquam inde parcellam, nec ultra bona seu catalla de bonis & catallis suis propriis in balliva mea, unde fieri facere possum damna predicta, vel aliquam inde parcellam: Et ulterius certifico Justiciar. infra specificat. quod per T. I. & E. R. probos & legales homines de balliva mea scire feci eidem A. B. quod sit coram Justiciar. predicti. ad diem & locum infracontent. ad ostendend. &c. prout interius mibi precipitur.

Resid. execution. istius brev. patet in quadam iuquisitione huic brevi annex.

R. S. Ar. Vic.

Inquisitio indent. capl. apud A. in Com. pred. xxii die Januarii, anno Regni Dom. Regis infra script. xiv, coram me R. S. Vic. Com. pred. virtute brevis dict. Dom. Regis mibi directi, & huic inquisitione annexi, per sacram. G. H. (and so to the Number of Twelve) proborum & legalium hominum de balliva mea, qui dicunt super sacram. suum, quod A. B. in pred. brevi nominat. devastavit & ad usum suum proprium convertit diversa bona & catalla qua fuer. infra nominat. C. D. tempore mortis sue, ad valene. debiti & dampnor. in eodem brevi specificat. & que ad man. ejusdem A. B. administrand. vnu. In cuius rei testimonium, tam ego prefat. Vic. quam pred. Jurator. huic inquisitione. indent. alternatis sigilla nostra apposuimus eisdem die & anno primo supra script.

R. S. Ar. Vic.

Virtute

Virtute hujus brev. mibi direct. fieri feci de bonis & catallis infra nominat. A. B. summam 80 l. quos quidem denar. coram Dom. Rege ad diem & locum inframentionat. parat. habeo ad reddend. inframominat. C. D. pro debito & damnis suis infra specificat. prout per hoc breve mibi precipitur.

R. S. Ar. Vic.

Virtute istius brev. fieri feci de bonis & catallis infra nominat. A. B. ad valene. 8 l. 16 s. 4 d. quos quidem denar. coram Dom. Rege ad diem & locum infra mentionat. parat. habeo ad reddend. infra non minat. C. D. in parte debiti & damnor. suor. infra specificat. Et ulteriorius dicto Dom. Regi certifico. quod pred. C. D. nulla al. vel plura habet bona & catalla in balliva mea. unde ad praesens fieri facere possum resid. debiti & damnor. pred. secund. exigenc. istius brevis.

R. S. Ar. Vic.

Virtute istius brevis mibi direct. de terris & catallis infra nominat. A. B. cepi. videlicet. un. messuag. cum pertin. in C. in Com. meo N. modo in tenur. cuiusdam C. D. quod pred. A. B. tempore captionis eiusdem tenuit sibi & agn. suis pro quodam termino annunciam quod nondum prateriit. ex dimissione. concessione. vel assignatione cuiusdam R. B. ad valenc. 10 l. quae quidem terr. & catal. adhuc remanent invendit. in manibus meis. pro defectu emptorum ratione eiusdem denarios coram Justiciar. infra mentionat. ad diem & locum infra content. habere non possum. ad reddend. infra nominat. C. D. prout interius mibi precipitur.

R. S. Ar. Vic.

Justiciar. infra mentionat. certifico. quod post execution. istius brevis. & ante return. inde E. L. Mil. nuper Vic. Com. pred obiit. turn of a & quod hoc breve prout superius indorsat. & return. mibi R. S. Ar. modo Vic. Com. pred. deliberat. sicut per G. T. deputatum Vic. pred. E. L. nuper Vic. Com. pred.

R. S. Ar. Vic.

so returned prout indorsat. by the present Sheriff.

Justiciar. infrascript. certifico. quod terr. & tenementa que fuer. infra nominat. F. B. eodem die & anno infra mentionat. quo iudicium debiti & compotum infra specificat. reddit. fuit. sunt & adhuc existunt in man. Dom. Regis in Cur. sua Wardorum & Liberation. ratione quod R. B. Gen. tenens terrar. & tenementor. pred. adhuc non prosecutus est liberation. terrar. pred. extra Cur. pred. Ideo ad execution. istius brevis procedere non possum. prout interius mibi precipitur.

R. S. Ar. Vic.

In-

Return of
a Writ to
inquire of
Damages
in Trover.

Inquisitio indent. cap. apud Castrum Ebor. in Com. Ebor. xxv die N. anno Reg. Dom. Will. tertii Dei Gracia Anglia, Scotie, Francie & Hibernia Regis, Fidei Defensoris, &c. octavo coram S. S. Baro-netto Vic. Com. pred. virtute brevis dicti Dom. Reg. eidem Vicecom. direct. & baie inquisitioni annexat. per Sacramentum W. D. (and so to the Number of Twelve) proborum & legalium hominum de Com. pred. qui impanellat. jurat. & onerat. existent. ad inquirendum de his in eadem brevi mentionat. super sacramentum suum dicunt quod predictus M. W. sustinuit pro damnis suis occasione premissi. pred. in eodem brevi mentionat. ultra miseri & euastigia sua in ea parte apposuit. ad 100 s. ac pro miseri & euastigii suis ad sex denarios. In cuius rei Testimonium tam prefatus Vic. quam Jurator. pred. huius Inquisitioni sigilla sua apposuerunt die anno & loco supradictis.

R. S. Ar. Vic.

Inquisitio indent. cap. apud W. in Com. pred. sexto die Januarii anno Regni Dom. Regis nunc, &c. xiv coram me R. S. Ar. Vic. Com. pred. virtute brevis dicti Dom. Regis mibi direct. & huic inquisitioni annex. per sacram. M. P. (and so to the Number of Twelve) proborum & legalium hominum de balliva mea qui jurati & onerati ad veritatem de & super premissis in dicto brevi content. dicunt super sacram. suum, quod H. S. in dicto brevi nominat. seipst. fuit. in domino suo, ut de feodo. xiv die Junii anno, &c. in eodem brevi mentionat. de un. capital. messuag. cum pertin. & quinq; acr. terr. seu acr. prat. & octo acr. pastur. situat. & existent. in B. in Com. pred. clara. annual. valoris in omnibus exitibus ultra reipras 40 s. Et pred. Jurator. ulter. dicunt super sacram. suum, quod pred. H. S. non habet al. vel plur. terr. five ten. pred. xiv. die Junii pred. nec unquam postea, neq; ulla bona vel catalia tempore captionis hujus inquisitioni. in balliva mea ad notitiam Jurator. pred. mediatatem omnium & singulor. quor. quidem messuag. & pred. quinque acras terr. & sex actas prat. ego dict. Vic. die captionis hujus inquisitionis deliberari feci T. C. in dicto brevi etiam nominat. tenend. sibi pred. T. & sign. suis, tanquam liber. tent. suum, secundum formam Statuti in eo casu edit. & provisi, quousq; debit. & damna in eodem brevi nominat. plenar. satisfact. erint. In cuius rei testimonium, &c.

Otherwise, quousq; dictus T. C. in dicto brevi etiam nominat. plenar. satisfact. erit de debito & damnis in eodem brevi nominat. In cuius rei testimonium, &c.

R. S. A. Vic.

The Re-
turn of an
Extent in
the Exche-
quer, &c.

Infra nominat. A. B. non est invent. in balliva mea Resid. execu-
tionis hujus brevis patet in quadam inquisitione indent. huic annexa.

R. S. Ar. Vic.

Inqui-

Inquisitio indent. capt. apud K. in Com. pred. xxi die Octobris M. ss.
anno Regni Dom. Regis nunc xiv, coram me R. S. Mr. Vic. ejusdem
Com. N. virtute brevis dict. Dom. Car. secundi Dei gratia Angliae,
Scotie, Francie & Hibernie Regis, Fidei Defens. &c. mihi direct.
& huic inquisitione, indent. annexi per suorum. H. S. (and so to the
Number of Twelve at least) proborum & legalium bonorum de
balliva mea, qui Jurat. &c. dicunt super sacram. suum, quod R. T.
in pred. brevi nominat. xx die Aprilis, anno Regni Regis pred. xiii,
in eodem brevi nominat. super quem diem dict. R. T. devit debitor
dilatio Dom. Regi infra mentionat. seisti. fuit in dominico suo ut de feodo
de & in uno messuag. cum pertin. quinq; acr. terr. & ex acr. prat. & collo
acr. pastur. situat. jacen. & existent. in F. in Com. pred. modo in tenor.
& occupatione I. G. vel assignat. suorum. clari annual. valoris in omnibus
exitibus ultra reiprasa 10 l.

Omnis que quidem messuag. terr. & renementa cum pertin. ego
prefat. Vic. eodem die caption. istius inquisit. cepi & seifui in manus
dict. Dom. Regis, prout per breve ipsud mihi precipitur.

Et iidem Jurator. super sacram. suum dicunt, quod pred. R. T. ad
diem caption. hujus inquisitione. in reversione seisti. est (cum occiderit post
mortem C. D. vid.) in Dominico suo ut de Feodo, de uno messuagio
cum pertin. 6. acr. terr. quinq; acr. prat. & xii acr. pastur. situat. ja-
cen. & existent. in H. in dicto Com. N. & modo in tenor. & occupa-
tione ejusdem C. Vid. Et quod pred. C. D. vid. mens in vita existit
adeo quod ad praesens dict. messuag. terr. & premiss. in H. pred. sunt
nullius valoris; sed post mortem ipsius C. D. vid. clari annual. valoris
fuerint in omnibus exitibus ultra reiprasa 8 l.

Reversio eius quidem messuag. terr. & premiss. cum pertin. in H.
pred. (cum occiderit) ego prefat. Vic. eodem die captionis hujus inqui-
sitionis cepi & seifui in manus dict. Domini Regis secundum exigent.
istius brevis.

Et ulterius Jurator. pred. super sacram. suum dicunt, quod supra
nominat. R. T. tempore caption. hujus inquisitione. fuit & modo posse-
ssuat. est de bonis & catallis separatum mentionat. & appreciat. in qua-
dam Schedula huius inquisitione. indent. annexa. ut de bonis & catallis
suis propriis; Et quod totus valor eorundem bonorum & catallorum
est 40 s.

Quae bona & catalla eodem die caption. hujus inquisitione. ego prefat.
Vic. similiter in man. dict. Dom. Regis seifui.

Et iidem Jurator. ulterius dicunt super sacram. suum quod eodem die
caption. hujus inquisitione. R. I. de G. in Com. N. pred. Yeoman,
indebitat. fuit supra nominat. R. T. in sum. integra vigint. librar.
pro reddit. Ac etiam quod modo sunt in man. ejusd. R. I. diversa
bona

Return of Writs.

bona & catalla ejusdem R. T. scilicet, una longa tabula, &c. que bona & catalla conjunctim sunt valoris 40 s. Omnia que quidem reddit. virgin. libr. & bona & catalla valoris ad 40 s. pred. ego prefaz. Vix. eodem die captionis hujus inquisition. similiter in man. dict. Dom. Regis, ut in man. ejusdem R. I.

Et pred. Jurator. praterea dicunt super sacram. suum pred. quod infra nominat. R. T. nulla al. five plura habet terr. five tenementa ad pred. diem quo devenit debitor sic ut predictur, nec unquam postea, neque ultra alia five plura bona & catalla habet tempore captionis hujus inquisition. in balliva mea ad notitiam Jurator. pred. In cuius rei testimonium, &c.

R. S. Ar. Vic.

Virtute istius brevis mibi direxit, per W. G. & E. D. probos & legales homines de balliva mea, scire feci R. W. infra nominat. fil. & hered. R. W. infra nominat. defunct. & W. R. & L. M. Gen. tenent. diversorum terrar. & tenementorum in balliva mea, unde pred. W. R. pater tempore vita sua fuit se sit. in Dominico suo ut de Feodo in Graff. omnia animarum infra specificat. quod sunt coram Justiciar. interius mentionat. ad diom & locum infra cointenti. ad ostendend. &c. prout interius precipitur.

*Pleg. de prosequend. } Joban. Doe,
H. W. } &
Rich. Roe. } Rich. Roe.*

*Summon. infra mentionat. } R. M.
H. W. } &
R. B. } R. B.*

Et ulterius virtute istius brevis tertio die Jan. anno infrascript. publice proclamari feci secundum formam Statuti & exigene. istius brevis.

R. S. Ar. Vic.

Return of Jurors.

If two sufficient Hundre-
dors do ap-
pear, it is
sufficient.
Se. 27 Eliz.
cap. 6.

HE must return four Jurors where the Venuue lieth, if there be so many within the Hundred, vix. within the Place where the Demand is made; yet by the Statute of 27 Eliz. cap. 6. upon the Trial of an Issue joined in any personal Action, if two sufficient Hundredors do appear, it is sufficient: He must return their Names, and a true Addition of

of their Dwelling-places, or some other Addition by which the Party may be known.

The Sheriff without a *Non omittas* may impanel a Jury of Men living in a Franchise. 22 R. 2. Chal. 177.

No Persons are to be returned above the Age of seventy None are Years, nor Persons of a languishing Sickness or Disease at the Time of their Summons; no Alien, Infant under the Age of fourteen, Clergymen, or Ministers. Lamb. 382. Fitz. 165. d. 166. a. d.

By the Statute of 4 & 5 W. & M. cap. 24. all Jury-men in England for the Assizes or Quarter-Sessions are to have ten Pounds per Annum of Freehold or Copyhold Lands or Tenements, and in Wales six Pounds per Annum.

Though the Current of the *Venire facias* be but to return *duodecim homines* & *legales homines*, yet must he return twenty and four; if he return but three and twenty, and twelve appear and give their Verdict, this is Error. Co. 5. 36, 37.

He is to summon and return the Grand Jury to the Assizes, and the Juries for the Quarter-Sessions of the Peace, and is to array his Panel six Days (at the least) for the special Assizes, and before the Sessions of the Justices, so that View and Copies for the Panels may be had if they be required; which Copies must be indented by the Sheriff, and delivered to the Plaintiffs, Defendants or Tenants.

Upon an Indictment he ought to return none but *probos* & *legales homines*, viz. such as are not attaint by Law, *Decies tantum*, Subornation of Perjury, Concealment, such as are not outlawed, abjured, condemned in a *Premunire*, or attaint of Treason, Felony, &c. 11 H. 2. c. 9.

Return of Issues.

HE is to return good, sufficient and reasonable Issues, and upon such Persons as have sufficient Goods and Lands, according to the Statute of Westm. 2. cap. 39. and E. 3. cap. 5.

We must return good issues.

Of Escapes, and what Damages do occur to the Sheriff by them.

The Sheriff
must elect
an honest
Gaoler,

What an
Escape is.
For Felony,
it is Felony
in him that
suffers the
Escape, &c.

If a Prisoner
escape,
yet upon
fresh Suit,
and taken,
he shall be
in Execu-
tion.

Co. 3. Boy-
ton's Cale.

Idem sup.
Litt. fol.

260. 13 E.
1. c. 11.

2 R. 2. c. 12.
Plewd.

260. s.
The King
cannot
command
without
Writ, to
free a Man,

&c.

TH E Sheriff ought to be very cautious in electing a vigilant and honest Gaoler, and such a one as is able to give sufficient Security for his Fademonity and true Performance of his Office, and to answer all Escapes; for of all the Officers that appertain to the Sheriff, the Gaoler ought to be most circumspect, otherwise many Escapes would happen; And first, to define what an Escape is.

It is (here to be understood) where one that is arrested and imprisoned in the common Gaol of the County, and cometh to his Liberty before that he is delivered by the Award of any Justices, or by Order of Law. If the Imprisonment of him that escaped were for Felony, then that shall be Felony in him that did voluntarily (not otherwise) suffer the Escape; and if for Treason, then it shall be Treason in him; and if Trespass, then Trespass, &c.

Although the Prisoner which escapes be out of the View, yet if fresh Suit be made, and he be reprimed *in custodia insecurior*, he shall be in Execution; otherwise at the turning of a Corner, or by an Entry of an House, or by any other such Means, the Prisoner may be out of View, Co. 3. Rep. Ridgway's Cale.

If the Sheriff doth affent, that one who is in Execution, and under their Custody, shall go out of the Gaol for a while, and then return, although that he return in the Time, yet this is an Escape; for the Sheriff ought to guard him *in salvo & arcta custodia*; and the Statute of Westm. 2. cap. 11. saith, *Quod carceri mansipientur in firris*. So that the Sheriff may keep such as are in Execution in Irons and Fosters, till they have satisfied their Creditors.

It is adjudged, if one be in Execution, no Commandment, although of the King himself, without Writ, is a sufficient Warrant to discharge the Gaoler, and so by the same Reason shall not discharge the Sheriff.

A recovered upon a Plaine in London against B. and had him in Execution in Ludgate, and died intestate; B. was permitted by the Keeper of the Gaol of Ludgate to go at large into Southwark with I. S. the Servant of the Keeper, and that by the Commandment of the Keeper. The Administrator of A. brought Debt against the Sheriff of London upon the Escape: It was adjudged by all the Barons of the Exchequer, that it was an Escape: And when the Prisoner came into Surrey, he had not any Kgeper as a Prisoner for the Debt, for that

that he that waited upon him in the County of *Surrey*, could not be Officer to the Sheriff of *London*; for the Power of every Sheriff extends not beyond his own County, unless it be in special Cases: And it was holden in this Case, that this voluntarily suffering him to go into another County, when the Keeper or Servant waited upon him there, the Party might have an Action of false Imprisonment against him. *Pasc. 3 E. 3. Plow. Com. Plat and the Sheriff of London's Case. 36. vid. 3 E. 6. Dyer 165.*

If Traytors be imprisoned under the Custody of the Gaoler, and afterwards they break the Prison and escape, the same discharges not the Gaoler, but he shall be charged with the Escape; but it is otherwise of the King's Enemies; for in the one Case he hath his Remedy over, but in the other not. See *Co. 4 Part. 84. Soubbor's Case. See 3 E. 6. Dyer 66.*

A Man was arrested upon a *Latitut* for 100*l.* the Plaintiff ^{What an} intending upon his Appearance, and Bail put in, to declare *Escape*. against him for the same Debt; and being arrested by the old Sheriff, who returned *longidus*, &c. and yet left him in Prison, the new Sheriff suffered him to go at large, without finding Sureties for his Appearance; whereupon he brought his Action upon the Case against the Sheriff upon the Escape. Upon *Non culp.* pleaded, this Matter was found. It was adjudged for the Plaintiff; for this Permission to escape was a just Cause of Action, for by this Means the Plaintiff is defrauded or delayed of his Action. *Trin. 12 Jac. in B. R. King and Sir Bebele Andrew's Case. Crd. 2 Part. 380.*

In Debt upon an Escape, it was holden by all the Justices, That if a Prisoner in Execution escape, and the Gaoler make fresh Suit, and before the retaking the Party brings his Action against the Gaoler: Now the Gaoler may not take the Prisoner, as to be in Execution again for the Party, but only for his own Indempnity. But if the Party doth not bring his Action, then the Gaoler may retake the Prisoner, and he shall be in Execution again for the Plaintiff. *Hil. 43 Eliz. in B. R. in Golast. 180.*

If a Man escapes with the Consent of the Gaoler, he cannot retake him: if he doth, the other for his Discharge shall have an *Audita Querela*. *Co. 3 Part. 52. Ridgway's Case.*

Action upon the Case was brought against the Sheriff of *Middlesex*, for suffering one to escape who was arrested upon a Bill of *Middlesex* for 33*l.* The Defendants pleaded, that after the Arrest, leading him towards *London* for the Gaol, he was rescued from their Bailiffs by *I. S.* and *I. P.* which was adjudged, that the Arrest being upon mean Process, and not upon Execution, the Sheriffs are not bound to take *Posse Comitatus* with them; and therefore upon such Process a Rescous is a good Return, and the Sheriff or Bailiffs are not chargeable upon an Escape: But upon a *Capias ad satisfacendum*, or

Prisoner retaken.

*When a
Rescue dis-
charges the
Sheriff.*

Capias

Of Escapes.

Capias Uslagat. after Judgment, such Return is no Excuse for the Sheriff; for at his Peril he ought to keep his Prisoners taken in Execution: For there the Process is determined, and being executed, the Party can have no new Process; but in the other Case, there is not any great Mischief, for the Party hath only lost his Process, which he may renew, as also have an Action upon the Case against the Rescousors: It was adjudged for the Defendants, *May and Proby and Lumley, Sheriffs of Middlesex's Case.* *Pascb. 13 Jas. in B. R. Rot. 101. Cro. 2 Part, 419.*

When the Sheriff shall be charged with the whole.

It was holden by the Justices in the King's Bench, that if a Man be arrested by Virtue of a *Capias ad satisfaciendum*, or a *Capias Vilagatum* after Judgment, and a Rescous is made at the same Time, by reason of which the Party arrested escapes, that the Sheriff shall be charged for the Escape, with the whole Debt, and he shall have his Remedy over against the Rescousor by an Action upon the Case. *Trin. 7 Eliz. Dyer 241.* See *16 E. 4. 2 & 3.* But note, *Pascb. 15 Car. in B. R.* It was agreed by the Justices, that if the Sheriff doth arrest a Man upon a Mesne Process, and return a *Capi corpus*, and that the Defendant was rescued, that no Action lieth against the Sheriff; but if the Party be taken upon an Execution, and be rescued, an Action upon the Case will lie against the Sheriff. See *March. Pascb. 15 Car. in B. R. I.*

If the Sheriff die, and one breaks the Gaol, no Escape, &c.

Where the Sheriff dieth, and one in Execution breaketh the Gaol, and goeth at large, this is no Escape; for when a Sheriff dieth, all the Prisoners are in the Custody of the Law, until the Election of a new Sheriff.

If a Woman-Gaoler marrieth a Prisoner,

If a Woman be Warden of the Fleet, and a Prisoner in the Fleet marries her, this shall be adjudged an Escape in the Woman, and the Law judgeth the Prisoner to be at large. *Plowd. Com. Plat's Case.*

It is an Escape, if Prisoners be remov'd out of the County, but they may be remov'd to another Place within the same County; but not for their Ease,

If the Sheriff remove his Prisoners out of the County without being commanded, it is an Escape. But if he remove them from one Place to another in his County as he changes his Gaol, it is no Escape; but if he remove his Prisoners for their Ease and Delight in the same County, it is an Escape: The Case was cited by *Harvey, Mich. 3 Car. Com. Banc.* That the Sheriff went with his Prisoner to a Bear-baiting in the same County, and it was adjudged an Escape. And *Hutton Justice* said, that if a Sheriff permit his Prisoners to go to work for their Benefit, it is an Escape. And the Question was, If in an *Audita Querela* for a voluntary Escape of one in Execution, for then it is an Escape. *Mich. 3. Car. Com. Banc.*

there

there should be Bail; and the Opinion of the Court was, that if it appears that the Cause upon which the *Audita Querela* is grounded, is called a good Proof by the Record, that he should not be bailed, unless good and special Bail.

If a Prisoner of his own Wrong escape and lie into another County, the Sheriff or his Officers upon fresh Suit, may take him again. See *Dalton's Office of Sheriffs*.

The Sheriff
upon fresh
Suit may
take a Pri-
soner in another County.

If a Prisoner in the Gaol attempteth to escape, and having broken his Irons, striketh the Gaoler (coming in the Night to his Prisoner) and the Gaoler slayeth him, 'tis no Felony.
22 *Aff. 35.*

No Felony
in the
Gaoler to
kill a Pri-
soner that
attempteth
to escape.

'An Action of Debt was brought against a Gaoler for an All Priso. Escape, who said that the Sheriff did not deliver him lawfully nersought to be kept to him; and it was therefore ruled, 13 E. 3. *Fitz. tit. Bar.* in *salva &* *arcta cu-* *Plac. 253.* That he shall not take Benefit, nor any Notice *stodia.* 13 whether he was lawfully delivered to him in Execution, or *E. 3. Fitz.* not: But he being once in his Custody, he ought to keep him *tit. Bar.* *in arcta & salva custodia, sub salva* for the Gaoler, and *arcta* for the Party, the Plaintiff; the Party by this being toarsted to *Plac. 253.* pay the Debt.

Mich. 12 Jac. An Action upon the Case was brought against the Sheriff of N. for an Escape; upon *Not guilty* pleaded, all the *Mich. 12* *Jac.* One Special Matter was found and shewed to the Court, which taken upon was this, That a *Capias* did issue to the Sheriff to take one a *Cap.* by (John) which was by a wrong Name, and the Sheriff returned a wrong Name, *&c.* Non est inventus; and upon this a *Testatum* issued out to him, a *Testatum* issued out and therein named him by his right Name; upon this the Sheriff took him, and had him in Execution, and afterwards suffered him to escape. The whole Court agreed, that the Sheriff is answerable for his Escape, notwithstanding the first *Cap.* Was by a wrong Name; for he was taken, and suffered to escape: Here upon *Not guilty* pleaded, the special Matter was found, and shewed that the first *Capias* was by a wrong Name; yet the Court was clear of Opinion, that he being taken, and in Execution by his right Name, though the first *Capias* was erroneous, and not right, the Sheriff shall be chargeable for this Escape clearly; and so by the Rule of the Court Judgment was given for the Plaintiff.

against
him by his
right
Name, and
was taken
in Execu-
tion, and
suffered
him to
escape; and
the Sheriff
was judged
answerable
for the
Escape.

Cro. 2. fol.

657, 658.

Whiting's

Case.

A Man's Wife taken in Execution, and suffered to go at large before the Debt satisfied, judged an Escape.

A Reprisal by fresh Suit before the Action brought, excusable; but a Reprisal after the Action brought, no Excuse.

Co. 3. f. 52.

I think it very pertinent to our Subject-Matter, (and 'tis well worth Observation) to transcribe Whiting's Case against Sir George Reynell, Marshal of the King's Bench, in the second Part of Crook's Reports, fol. 657, 658. viz. Debt for 202 Pounds; whereas he recovered against Thomas Abingdon, and Mary his Wife, in Trespass for Damages, 202 Pounds; and the said Mary was committed in Execution to the Defendant upon this Judgment; That the Defendant, 24 November, 16 Jac. suffered her to go at large whither she would, his Debt not being satisfied, *per quod actio accredit*. The Defendant pleaded that she brake Prison and escaped, and he freshly followed her and took her again, 21 October, 17 Jac. in fresh Suit, and had her in Execution, and yet hath her, &c. Whereupon the Plaintiff demurred; and it was now argued, that this Plea was not good, because the Escape is alledged, 24 November, 16 Jac. and the Action is brought, Pasch. 17 Jac. And this Reprisal is alledged a Year after the Escape, and after the Action brought. For it was alledged, although a Reprisal by fresh Suit (if it had been before the Action brought) would peradventure have excused him; yet being after the Action brought, so as the Plaintiff at the Time of the Action brought had good Cause to have the Action, the Reprisal after shall not excuse him; and compared it to Waste brought for Reparations, which is amended pendant the Writ, it shall not excuse him. So here.

And in Proof thereof were cited, Co. 3. fol. 52. Ridgway's Case. 23 E. 4. 8. 13 E. 3. tit. Bar. 253. But against this it was argued, that this Reprisal being alledged to be by fresh Suit, and before the Plea pleaded, is good for the Time, and he shall take Advantage thereof to excuse the Escape: For it is upon the Matter no Escape, when she was retaken by fresh Suit; for that is a continual Pursuit, and the Law shall adjudge her in Prison always. And it is not like the Case of Waste; for there nothing was done after the Waste committed, before the Action; and the Reparation hath not any Relation to, nor is the Continuance of any former Act; but this Reprisal hath Relation, and makes it no Escape; *ab initio*. As a Distreis taken for Rent, and rescued, and driven into another Manor, which is pursued and retaken, the Party shall make his Avowry of the taking in the first Place. So here. And it would otherwise be a great Mischief, if an Escape should be against the Wills of Sheriffs, or Keepers of Prisons, by Breach of Prison, or rescuing themselves before they be brought to Prison, or in their going thither, and the Prisoners be reprised within two or three Days, that an Action should be brought in the *interim* against the Gaoler, and that this Reprisal (when he hath the Prisoner before the Plea) should not be an Excuse, especially to the Marshal, who hath Multitude of Prisoners, and every Day is to bring them unto the

the Hall by *Habeas corpus*, or Rules of Court: If peradventure a Prisoner escapes, and an Action be brought against the Marshal the same Day, before he can have any Time to retake him; if he should not be excused by the retaking, he would be charged with a Multitude of Suits, and could not have any Remedy to excuse him. And therefore it was compared to the pleading of a Fine levied before the Writ of *Farmdon*, and Proclamations incurred, pendant the Writ before the Plea pleaded; he well may take Advantage thereof by pleading it, although when the Writ was brought, it was not compleat, nor could be pleaded. See 6 H. 7. 12.

Secondly, It was moved, admitting this to be no Plea, yet the Action lies not here, because the Escape is of a Feme Covert, where a Baron is subject to the Execution: So the Plaintiff hath not lost his Debt; for by Intendment she might not have paid it, if she had lain in Prison, for she had nothing but what was her Husband's, and the Execution remains yet against him.

Therefore Action of Debt lies not, because he is not totally deprived of his Debt; but an Action upon the Case, in respect of the Damage.

And therefore it was said, If one have Execution of a Statute of the Lands, Goods, and Body, &c. and the Prisoner escapes; yet because the Lands remain in Execution, Debt lies not for the Escape, but an Action upon the Case: For at the Common Law, an Action of Debt was not maintainable for an Escape, but it is given by the Statute of 1 R. 2. where the Debtor escapes. But here the sole and principal Debtor did not escape; for the Baron is the Principal, and remained subjected to the Execution. See 33 H. 6. 47. N. B. 93. Reg. fol. 98. 4 H. 6. 6.

Statute
1 R. 2.

Wherefore, &c. But the Court held, that it was not any Plea, because the Action is brought, and implies a voluntary Permission *ire ad largum*, which is neither denied or traversed. And if the Sheriff voluntarily lets a Prisoner at large, he cannot retake him. And so this Reprisal, as is alledged, being after the Action brought, is to no Purpose, nor is any Plea. And for the Action of Debt, they held that it well enough lies, or an Action upon the Case at his Pleasure; because the Feme was only committed to Prison, and not the Baron; and she is the sole Debtor who is imprisoned; wherefore it was adjudged for the Plaintiff.

But note, Inasmuch as Escapes are so penal to Sheriffs, Bailiffs of Liberties, and Gaolers, the Reverend Judges of the Law have always made a favourable Construction, as much as the Law will permit, in Favour of the Sheriffs, Bailiffs of Liberties, and Gaolers, who are Officers and Ministers of Justice. Co. 3: 44.

This Learning is become exceeding voluminous, and the Reader that desires more, may find all the Cases extant referred to in the Tables to the Report-Books.

Of Bail, what it is, and where the Sheriff may take Bail, and where not.

What Bail
is, Co. super
Litt. lib. 1.
cap. 10.
Sect. 79.

Bail, or *Ballum*, is a safe Keeping or Protection ; and thereupon we say, when a Man upon Surety is delivered out of Prison, *traditur in ballum*, he is delivered into Bail, *viz.* into their safe Keeping, or Protection from Prison, before that he hath satisfied the Law : It hath its Original or Derivation from the French Word *Ballier*, and that also cometh from the Greek Word *Balλeir*. They both signifie to deliver into Hand ; for he that is bailed, is taken out of a Prison, and delivered into the Hands of his Friends, who are his Sureties for his Appearance at a certain Day, to answer, and be justified by the Law.

Any Person making a Warrant, &c. without our original Process upon Examination, &c. shall be committed without Bail. Sheriffs, Under-Sheriffs, or other Persons, making any Warrant for the Summons, arresting or attaching any Person to appear in any Court, not having the original Process or Writ to warrant it, upon Examination and Proof thereof before the Judges of Assize, or Judges of the Court, &c. such Offenders and their Procurers shall be committed to the Gaol, there to remain without Bail until they have paid (amongst them) 10*l.* to the Party grieved, and his Costs and Damages ; as also 20*l.* to the King. 43 Eliz. c. 6.

&c. 43 Eliz. cap. 6.

Such as are in Execution upon any Statute or Recognition, or upon Judgment given in the King's Courts at the Suit of any Person, they shall not be bailed until they have agreed with the Plaintiff. 1 R. 2. c. 12. 23 H. 6. c. 10. F. N. B. 9. and 121. 4.

The like. Persons condemn'd in any of the King's Courts, and by Virtue thereof committed to Prison, they shall not be bailed until they have agreed with the Plaintiff. 1 R. 2. c. 12. 2 H. 5. c. 2. F. N. B. 121. 4.

None to be bailed that are prohibited by the Statute of Westm. 1. cap. 15.) to be bailed, he shall be punished by Justices of Gaol-Delivery, according to the Form of the same Statute ; or the Justices may fine them, as for an Escape punishable at the Common Law. 25 E. 3. 39. cap. 15.

The

The Sheriff might at the Common Law have bailed one suspected of Felony, because he is Conservator of the Peace; but now it seems the Power is transferred to the Justice of the Peace only. See the Statute 1 R. 3. s. 3, and 3 H. 7. 3.

If a Prisoner bailable tender sufficient Sureties to the Sheriff, and he refuseth, he shall be amerced to the King and Informer 40 l. and shall lose treble Damages to the Party grieved.

He cann^{ot}
bail any
suspected
of Felony,
as formerly

He cannot
refuse to
bail one
bailable,
upon Ten-

dler of sufficient Sureties.

If a Person be arrested by Virtue of any Writ or Precept in any Action personal, upon Tender of reasonable Sureties to appear at the Day and Place, as the said Writs, Bills, or Precepts shall require, he shall be bailed. 23 H. 6. r. 10. Fitz. 25 r. b. And the Person is not obliged to go to the Sheriff, if he offer sufficient Bail to the Bailiff.

Persons apprehended for any Manner of Treason or Felony shall not be bailed. Westm. 1. cap.

The like.
23 H. 6.
r. 10. Fitz.
251. b.

It is a constant Course of the King's Bench, that the Bail is never chargeable till there is Default assigned in the Principal upon the Return of a *Capias ad satisfaciendum*. And if the Principal render his Body, though the Plaintiff refuse to take it, yet that is a Discharge of the Bail. Winch. Rep. f. 62.

Traytors

or Felons

not bail.

able.

In the
King's
Bench the
Bail not
chargeable
till Default
assigned in

the Principal, &c. Winch. Rep. fol. 62.

It is not repugnant to our present Subject to transcribe the new Rules concerning special Bail, viz.

1. That if the Defendant appear upon the Summons, Attachment, or Distress, or by *Supersedeas quia imprudente*, or doth truly render himself upon the Exigent, no Bail is requireable.

2. That in all Causes of Removal, be it by *Habess corpus*, Privileges or *Certiorari*, special Bail ought to be given.

3. That in Causes where the Defendant comes in by *Cepi corpus*, be it Debt, Detinue, Trespass for Goods, Action upon the Case, (except Slander) if the Debt or Damages amount to 20 l. special Bail is to be given, except it be against an Heir, Executor or Administrator.

4. That in Covenant, because the Damages are uncertain till the Declaration, Bail at Discretion.

5. That in Battery, Conspiracy, false Imprisonment, no special Bail of Course, without special Motion and Order.

6. That in Slander no special Bail, except in Slander of Title, wherein to be left to the Discretion of the Judges.

7. That in Privilege, other than for Fees and Disbursements as an Attorney in this Court, Bail at Discretion of the Court. In such Case where a Suit by a common Person, especial Bail is not requisite.

8. That if Bail be given upon Reversal of an Outlawry, or removed by *Habeas corpus*, the Original to be shewn upon tendering of the Declaration, otherwise the Bail not liable, unless the Party or his Attorney will voluntarily appear, or take a Declaration without shewing of it.

9. That in case of a Removal out of an inferior Court, or Reversal, the new Original to agree in the Nature of the Action, the Sum in Demand, and the County, otherwise the Bail not liable; but if the Party will voluntarily appear to such varying Original, to be good as to the Party; but if upon a Cause removed by *Habeas corpus* out of the Courts of Canterbury, Southampton, Hull, Litchfield or Pool, which are Counties where the Judges of *Nisi prius* seldom come, if the Action be transitory, it must be laid in the County of Kent, Southampton, York, Stafford or Dorset, where the Town and County lieth, and the Recognizance to be taken accordingly.

10. That the Principal rendering himself at any Time after Bail put in, and before or upon the Day of Appearance of the *Scire fac.* returned *Scire feci*, or of the second *Scire fac.* returned *Nihil*; or in case there shall be an Action of Debt brought upon the Recognizance against the Bail, then if the Principal shall render himself upon or before the Process returned or served, no further Proceeding to be against the Bail.

Of the Election of Parliament-men, how, and when they are to be elected, &c.

Stat. 7 H.
4. 15.

Co. Inf. 4.
fol. 48.

THE Manner of electing Knights of the Shire is as followeth: viz. At the next County-Court after the Delivery of the Writ, Proclamation is to be made in full County, of the Day and Place of the Parliament; and that all there present, as well Suitors summoned as others, shall attend to the Election of the Knights; and then in full County a free and indifferent Election shall be made, notwithstanding any Request or Mandate to the contrary. And note, That no Election can be made of any Knight of the Shire, but between the Hours of Eight and Eleven in the Forenoon; but if the Election be begun within that Time, and cannot be determined within those Hours, the Election may be made after. And if any Election or Voices be given before the Precept be read and published, they are void and not effectual.

Like-

Likewise he ought immediately after the Receipt of the Writ of his Majesty for the summoning of the Parliament, to make his Precepts under the Seal of his Office, to every Mayor and Bailiff of Cities and Boroughs within his County, commanding them thereby to chuse Citizens and Burgesses to come to the Parliament. And those Mayors and Bailiffs must make a legal Return of that Precept to the Sheriff of their Election, and their Names that are elected: The Sheriff setting his Hand and Seal of Office to one Part of the Indentures, delivering it to the Mayor, Citizens or Burgesses, to be kept; the Mayor, Citizens or Burgesses setting their Hands and Seals to the other Part, delivering it as their Deeds to the Sheriff, to be certified and returned by him with the Writ of Summons to the Clerk of the Crown, whose Fee is 4*s.* for every Indenture. ^{23 H. 6. cap. 15. Cromp. 208. P. Parl. 5.}

<sup>23 H. 6. c.
15. Cromp.
208.</sup>

Note. That after the Precept of the Sheriff directed to the City or Borough for making of Election, there ought secundum legitm & consuetudinem Parliamenti, to be given a convenient Time for the Day of Election, and sufficient Warning given to the Citizens or Burgesses that have Voices, that they may be present, otherwise the Election is not good. <sup>Rot. Parl.
am. 5 H. 4.
num. 38.
Co. Inst. 4.
fol. 49.</sup>

And likewise note, that whereas in the Charters of Corporations it is said, That in the Election of the Mayor, Bailiffs, Provosts, Parliament-men, or the like Magistrates or Officers, they shall be chosen by all the Commonalty or Burgesses; if they have been chosen (Time out of Mind) by a certain select Number, commonly called the Common-Council, or by such like Name, and not in general by all the Commonalty or Burgesses, only so many of them as will come to the Election; such ancient and usual Elections are good and well warranted by their Charters, and by the Law also; for in every of their Charters they have Power given them to make Laws, Ordinances and Constitutions, for the better Government of their Cities, Boroughs, &c. by Force whereof, and to avoid popular Confusion, if they by their common Consent do constitute and ordain, that the Mayor, Bailiffs, and other principal Officers, shall be chosen by a certain select Number of the principal of the Commonalty or Burgesses, as aforesaid, and prescribe also how such select Number shall be chosen, such Ordinances and Constitutions were resolved to be good and allowable, and to agree with the Law and their Charters, for avoiding of popular Discord and Confusion: And it was resolved, that although such an Ordinance and Constitution cannot be now produced, yet it shall be presumed, in respect of such a Manner of ancient and continual Election, that at first such an Ordinance or Constitution was made; and it was said, that by the ancient and usual Usages, Elections have been so made in the Cities of London, Norwich, and in other Cities

Of the Election of Parliament-men.

Cities and Corporations, all which were resolved to be good ; and they were not to be innovated or altered, for the many great Inconveniences which may arise thereby. Co. 4 Part, 77.
The Case of Corporations.

Co. Inst. fol. 48. Who may be Electors.

At the Election, if the Party elected, or the Freeholders demand the Poll, the Sheriff cannot deny the Scrutiny, for he cannot discern who are Freeholders by the View ; and though the Party would have the Poll, yet the Sheriff must proceed in the Scrutiny. And by the Statute of 8 H. 6. c. 7. and 10 H. 6. c. 2. the Election of Knights of the Shire shall be made by the more Voices of the People dwelling in the Counties, having each of them Lands or Tenements of the yearly Value of 40*s.* besides Reprises ; and the Sheriff hath Power to examine upon Oath the Chusers, how much they may expend by the Year.

7H. 4. c. 15. After such Election, the Names of the Parties so elected (be they present or absent) shall be written in an Indenture, under the Seals of all those that did chuse them ; which Indenture so sealed and tacked to the said Writ, shall be the Sheriffs Return thereof touching the Knights of the Shires : And in such Writs (by the said Statute) this Clause shall be hereafter put, *Et electionem tuam in pleno Comitatu tuo faciam distincte & aperte, sub sigillo tuo & sigillis eorum qui electioni illi interfuerunt, nobis in Cancellaria nostra ad diem & locum in brevi contentum certifices indilat.*

What Persons are eligible, and who not. Such Persons as are eligible shall be resident in the County for which they are chosen, the Day of the Date of the Writ of Summons, and likewise those that chuse them : Also Citizens and Burgesses shall be resident in, and free of the Cities and Boroughs for which they are chosen.

Co. Inst. 4. fol. 48. One under the Age of one and twenty Years is not eligible, neither can any Alien be elected of the Parliament, until he be naturalized by Parliament, after which he is eligible to this or any other Place of Judicature.

Ibid. None of the Judges of the King's Bench, or Common Pleas, or Barons of the Exchequer, that have judicial Places, can be chosen Knights, Citizen, or Burgesses of Parliament, because they are Assistants in the House of Lords. As for present Times I make a Quere of this.

A Man attaint of Treason, Felony, &c. is not eligible : for touching the Election of two Knights, the Words of the Writ are, *Duos milites gladiis circulos, magis idoneos, & discretos eligi fac.* And for Election of Citizens and Burgesses, the Words of the Writ are, *Duos, &c. discretioribus & magis sufficientibus* ; which they cannot be said to be, when they are attainted of Treason or Felony, &c.

Any of the Profession of the Common Law, and who are in Practice of the same, are eligible.

The Punishment of Sheriffs for their Negligence in returning of Writs, or for leaving out of their Returns any City or Borough which ought to send Citizens and Burgesses. See their No. 5 R. 2. Stat. 2. cap 4. Also if one be duly elected Knight or Burgess, and the Sheriff return another, the Return must be reformed and amended by the Sheriff, and he that is duly elected must be inserted: For the Election in these Cases is the *Radix* or Foundation, and not the Return. Rot. Parl. 5 H. 4. n. 38.

Co. Inst. 4. fol. 47.

By the Statute of 16 Car. every County, City, Cinque-port and Borough that shall not make Election of their Knights and Citizens, Barons and Burgesses respectively, shall incur the Penalties following, (that is to say) every County the Sum of one thousand Pounds, and every City which is no County 200 l. and every Cinque-port and Borough the Sum of 100 l. except the Freeholders of any County, and Inhabitants, or other Persons having or claiming Power to make Election of any Knights, Citizens, Barons or Burgesses, shall proceed to making of Elections of them, which Elections shall afterwards fall out to be adjudged or declared void in Law by the Parliament by reason of Equality of Voices, or Misdemeanor of any Person whatsoever, then the said County, City, &c. shall not incur the Penalties aforesaid, so as an Election *de facto* be made.

Penalties
on Coun-
ties and
Places for
not elect-
ing.

Note. A Case worthy Observance adjudged. 14 Car. 2. Inst. Mill. 13 &c. 14 Car. 2. Rot. 1184. Co. B. Lechmer's Case. Trespass *pedibus ambulando & cum spadonibus*, &c. The Defendant justified, because that a Writ issued to the Sheriff of Worcester to chuse Knights for the said County to be at the Parliament; and that the next County-Court for the said County, after the Receipt of the Writ, was holden at the Castle of Worcester; and because the said Castle was not large enough to contain the Freeholders assembled to make the said Election, the said County-Court adjourned it self from the said Castle of Worcester, to the Place *in quo*, &c. The said Defendant further said, That he, at the Time of the Court holden, as aforesaid, and adjourned, as aforesaid, was a Freeholder inhabiting within the County of Worcester, seised of Lands and Tenements in Hanley-Castle, in the County aforesaid, to the Value of 200 l. per Ann. and that the Dwelling of the Defendant was distant from the Place *in quo*, &c. six Miles; and that the Defendant in Obedience of the said Writ and Adjournment, came *prædictum tempore quo*, &c. from his Dwelling-house to the Place *in quo*, &c. riding upon a Gelding, with one Servant attending as his Servant upon the Person of the Defendant, riding upon another Gelding, to the Intent that the Defendant might give his Voice for the Election of two Knights, according to the Command of the said Writ.

Of the Election of Parliament-men.

Upon which the Plaintiff did demur in Law; and upon Argument at the Bar, Judgment was given by the whole Court, *viz.* *Tirrel, Brown, Hyde and Bridgman* Chief Justice, for the Defendant.

In which Case these Points were resolved :

1. That the County-Court, as to the Election of Knights, is the Court of the Sheriff, and the Sheriff is the Judge, and the Adjournment his Act, the Writ being in the Nature of a Special Commission (*eligi facias*) although that in other Cases the Suitors are Judges.
2. That if the Sheriff adjourn the Court to another Place, and the Suitors do not attend at the Place of Adjournment, they are amerceable by the Sheriff.
3. That they by their Attendance are not Trespassers, by reason of the Necessity to make Election. (*Interest Republicæ*)
4. That if the Sheriff maliciously adjourn to an unfit Place, as a Field of Corn, &c. that an Action lieth only against him, not against the Freeholder.
5. That the Defendant living at such a Distance from the Place of Adjournment, may justifie his coming there on Horseback.
6. That the Defendant being an Esquire, may justifie his coming thither with one Servant on Horseback attending upon him. Adjudged for the Defendant.

But who shall be Electors, and who shall be elected, and the Time, Place, and Manner of Elections, and therein the Duty of the Sheriff, you may read more amply in the positive Laws of 7 H. 4. cap. 15. 11 H. 4. cap. 1. 1 H. 5. cap. 1. 8 H. 6. cap. 7. 10 H. 6. cap. 2. 23 H. 6. cap. 15. 6 H. 6. cap. 4, &c. which need not here be particularly rehearsed.

Of the Office of Under-Sheriff.

What he is.
Hob. fol. 13. Norton's
Case
against
Simms.

TH E Under-Sheriff (in effect) is but the Sheriff's Deputy, and acts whatsoever is to be acted by the High-Sheriff; (except some Particulars which are to be done by the Sheriff himself, as you shall find in several Places of this Tract) and therefore according to the Nature of a Deputation, must be removable as an Attorney is; and though the Sheriff should make him irrevocable, yet may he revoke him; for there is neither Common Law nor Statute Law that makes him immovable. He is but in the Nature of a general Bailiff.

Bailiff Errant to the Sheriff, and the whole County, as other Bailiffs are over a particular Hundred.

His Oath appointed by the Statute of 27 Eliz. is, *That he shall bear himself well for as long as he shall continue in the Office. It is necessary both for the publick Service, and for the Indemp-*

nity of the Sheriff, that he be removable by the Sheriff.

The Sheriff constituting an Under-Sheriff, doth implicitly give him Power to execute all the ordinary Offices of the Sheriff, that may be transferred by the Law; as serving Process and Executions, &c. But he cannot deal in a Writ of Redisseisin, because in that the Sheriff is Judge; nor in the Case of a Writ of Waste, where the Sheriff himself (*in propria persona*) is commanded to go to the Place wasted, because it is personal unto the Sheriff himself.

If a Sheriff will make an Under-Sheriff, provided that he shall not serve Executions above 20 l. without his special Warrant, this Proviso is void. For though it be at his Election not to make an Under-Sheriff at all, or may depute him at his Will, and so remove him wholly; yet he cannot leave him an Under-Sheriff, and yet abridge his Power, no more than the King may in case of the Sheriff himself. *Hb. Rep. fol. 13,*

The Sheriff ought to be very cautious in taking good and sufficient Security of the Under-Sheriff, to discharge, protect, and save him harmless of Escapes upon Arrests made by himself; for since that he transfers his Authority unto him, it is Reason he take Security of him to perform all Things justly and honestly to himself and others, not acting or intending any Thing against Law. See more in the Articles betwixt the High Sheriff and Under-Sheriff, amongst the Precedents.

The Sheriff's Fees.

T	O the Sheriff,	co	01	08	The She- riff's Fee
To the Bailiff who makes the Arrest or Attachment of the Plaintiff,		3	00	00	upon an Arrest:
To the Gaoler, if the Person be committed to Prison,		3	00	00	06
For the Obligation for Appearance if the Prisoner be bailed,		3	00	00	04
For making the Warrant upon the Writ, for every Name,		3	00	00	04
For the Copy of a Panel,		3	00	00	04
For returning of a Panel, though it seems to be Extortion by Lamb fol. 4. 15. and Crompt. fol. 205. b they use to take		3	00	02	00 by Lamb. fol. 4. 15. Crompt. fol. 205. b.
For the Return of every <i>Cepi corpus,</i>		3	00	00	04
					For

The Sheriff's Fees.

	l.	s.	d.
For the Return of a <i>Nibil</i> , or <i>Non est inventum</i> ,	00	00	04
For the Return of every <i>Venire facias</i> , <i>Tales</i> ,	00	02	04
<i>Habeas corpora</i> and <i>Distringas</i> ,			
For making a Precept upon a Writ to a special Bailiff, for every Name,	00	02	00
For the Copy of the Warrant upon the Writ,	00	00	04
For the returning of a <i>Mandavi bailivo</i> ,	00	00	04
For Writs of Execution upon the Judgment upon Bills sued in personal Actions, the Debt or Damage being under 40 s.	00	01	00
Upon Bills sued above 40 s. in Actions personal, for the Return of every such Bill,	00	00	04
For every Writ of Execution,	00	02	00
For executing of every Writ of <i>Elegit</i> in personal Actions,	00	06	08
In all real or mixt Actions sued by original Writ, for Return of every original Writ,	00	02	00
And for Return of every other Writ of Judicial Process depending upon the same before Judgment,	00	02	00
And for every Writ of Execution after Judgment, upon every Original in Actions, real or mixt,	00	02	00
For executing every <i>Habere fac. seifinam</i> ,	00	06	08
For Attachments upon <i>Capias</i> , or other Process sued by original or judicial Writ, if the Return be <i>Cepi corpus</i> ,	00	02	00
For a <i>Reddidit se</i> upon an Exigent of Felony in Appeal of Murder or Maihem, or upon an Indictment of Felony or Murder,	00	2	00
Upon a <i>Reddidit se</i> upon an Exigent of Debt, Trespass, Detinue, and all other Actions personal,	00	02	00
For Return of every Writ of Appeal of Murder, Felony, or Maihem,	00	01	00
And upon all Process growing upon the same, as <i>Venire facias</i> , <i>Tales</i> , <i>Habeas corpora</i> and <i>Distringas</i> ,	01	01	00
For every Prisoner delivered by Acquittal, or by Proclamation, for every Manner of Felony,	00	91	00
The Sheriff is to be compounded and agreed with for these.			
For executing of a Writ to enquire of Waste.			
Likewise for executing a Statute.			
For serving of a Writ <i>De Partitione factienda</i> .			
For removing the Over-charge of Common of Pasture.			
For Enquiry upon an <i>Elegit</i> .			

For

For Writs of Forcible Entry, or holding with Force, whereupon the Party amoved is to be restored to his Possession.

For Execution of a Judgment upon a Writ.

The Under-Sheriff of Middlesex useth to take these Fees following in the Court of Common Pleas.

F OR a Warrant for a Cap. upon every Name,	00	00	04
For the Return of a <i>Venire facias</i> ,	00	02	00
For a Warrant upon a <i>Capias Ulagatum</i> ,	00	00	04
For a Return of a <i>Habeas corpora Juratorum</i> ,	00	04	00
For summoning the Jury, for every Name,	00	00	04
For Return of a Proclamation,	00	01	00
For Return of a <i>Scire facias</i> ,	00	02	00
For Return of a <i>Nihil habet et fieri facias</i> ,	00	01	00

For executing an Extent or Execution upon Body, Lands, Goods and Chattels, 1*s.* for every 20*s.* where the Sum exceeds not 100*l.* that is to say, for every 20*s.* that he or they shall levy or extend, and deliver in Execution, or take the Body in Execution, by the Statute of 29 Eliz. cap. 4.

For executing an Extent or Execution.

Of Sheriffs' Accounts, with a Particular of some usual Charges or Fees paid by them at the rendering of their Accounts.

THE Sheriff giveth his Accounts into the Exchequer, and there is charged with his Casualties, which are all Manner of Debts of Casualties and Reliefs, Fines, Americaments upon the Sheriff, Debts recovered, and such like, as are drawn down either from any Record of any of the Remembrances of the Exchequer, or from any other Matter, Ground, or Seisure of the Courr; and the Sheriff must answer to every Sum charged upon him as he hath Cause; that is to say, such a Sum within such and such a Liberty, and sheweth whose they be.

He is charged with old Seisures, which are Lands and Tenements seised before by his Predecessors, upon the Process of the Court; and likewise with his own Seisures, which are Lands and Tenements seized in his own Time by Process of the Court, and so addeth to these such Felons Goods as he hath seised himself.

There

The Sheriff's Accounts.

There the Sheriff hath such Allowances as are allowed him by Act of Parliament, together with the Justices of Peace Wages of his Shire out of the Fines and Forfeitures before the Justices of Peace thereof, if the Eſtreat will bear them, laid out before the Sheriff's for the Justices Wages, according to the Statute; of the which Allowance, and of the particular Names of the Justices, the foreign Apposer doth deliver a Roll into the Pipe, for the Clerk of the Pipe's Warrant to allow the same Wages to the Sheriff. After which Things done, viz. Allowance of all Payments, Deductions, and annual Charges, then hath he his *Quetus eſt*. The Fees are as follow.

	l.	s.	d.
In the Term of St. Hillary, on the Morrow of Purification, &c.			
Imprimis, To his Attorney for his Warrant of Attorney, &c. for his own Fees, and his Man's Fees, and to another for entring the Warrant,	{ 02	00	02
To the Puny-Baron for miniftring the Oath for the Appofal upon the Summons of the Pipe, his Fee for the Vicontels, and his Man's Fee for the fame,	{ 01	07	00
To the Marshal, Cryers and Tipftaves there, The Fees of the foreign Apposer and his Men are,	{ 01	06	00
For his Writ of Affittance from his Attorney, His Attorney's Fees in the Pipe, and his Man's Fees,	{ 00	05	06
The Fees of the Deputy of the Pipe, To the Controller of the Pipe, his Man, and other Officers of the Pipe,	{ 01	03	04
His Attorney's Fee in the Remembrancer's Office, and his Man's Fee,	{ 02	15	02
To the Maſter of the Wardrobe for his Fee, for a Talley, to have thereby an Allowance given for it, and for joining of that Talley in the Pipe,	{ 05	16	05
To the Maſter of the Pipe for his Fee, The foreign Apposer's Fee for Allowance of Justices Wages to the Sheriff upon the Extracts of the Peace, and for the casting up of the Debt upon the Schedules of the Green Wax, and to his Men for their Fee,	{ 18	05	00
To the Auditor affigned for the Shire for declaring of the Account,	{ 02	18	04
To the Attorney of the Pipe for giving Allowance of the Justices Wages, before allowed by the foreign Apposer in the Sheriff's Account, and to his Man,	{ 02	06	08

To

The Sheriff's Accounts.

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	l.	s.	d.
To the Baron for declaring of the Account, and to his Man for his Fee,	} 00	08	08
To the Attorney in the Remembrancer's Office, for examining of the Account, and to one for the receiving of the Account,	} 00	05	00
For Copies of the Seizures which the Sheriff makes himself in his Year, commonly at the least,	} 05	00	00
For Copies of the new Seizures, according to the Number of them, in some Counties but 20s. but most commonly in <i>Yorkshire</i> to,	} 02	00	00
For Petitions upon the Account, for each,	00	04	00
For another Writ of Assistance,	00	05	00
For entring the View of the Account, and in the Alienation-Office for viewing of the Account, and for a Note of the Charge there,	} 00	09	08
For every Schedule of Issues upon general Pardons, and to the Clerk of the Extract's Man,	} 00	15	00
To a Baron for allowing of them, and to the Baron's Man,	} 00	17	04
In the Alienation-Office for the making of the Bond and Acquittance with the Schedules of Seizures against such as have sold Land held of the King without Licence of Alienation,	} 10	06	00
For a Warrant for a Day to finish the Account until <i>Michaelmas Term</i> ,	} 00	10	00
To the Attorney in the Pipe-Office for setting off from the Account six Amerciaments, and to his Man,	} 01	10	00
For discharging the Amerciaments, and for a Warrant to set off and discharge,	} 01	12	06
For another Writ of Assistance,	00	05	06
If the Sheriff cannot go through with his Account in <i>Trinity Term</i> , then to the Marshal for Liberty, and to his Man,	} 04	13	04
For ruling and making the Petitions, and to his Man,	} 09	00	00
To the Master of the Pipe for his Fee,	00	13	04
To the Controller of the Pipe for his Fee, and to his Man,	} 02	12	00
The Fee of the Attorney of the Pipe, and to his Man,	} 06	02	06
For the Acquittances of two Tallies in the Receipt, and for striking off those Tallies,	} 00	05	04
To two Auditors for casting up of the Sheriff's Account in Court, when he is to be cast out of the Court,	} 00	10	00
		To	

The Sheriff's Accounts.

	l.	s.	d.
To the Baron then, and to his Men,	01	07	00
To the Marshal, Tiptaves and Cryers then,	00	16	08
To the Clerk of the Pipe for Recusants, and for allowing and joining of the Talley for Re- cusants Debts,	01	16	00
To the Baron for Respites for Recusants Debts,	01	10	00
To the Clerk of the Pipe for Recusants for allowing of that Warrant, and to the Master of the Pipe for the same,	00	13	04
To the Bag-bearer,	00	01	30
For the <i>Quicetus est</i> , to the Sheriff's Attorney of the Pipe, and to his Man,	04	06	08
For the <i>Quicetus est</i> for the Recusants, <i>Cum multis aliis, &c.</i>	01	00	00

But the Sheriff is at much more Charge, which is laid out, and is disbursed during his Sheriffwick, as Experience will better inform him.

The old Oath of the Sheriff. [See post by whom this Oath is to be taken, and the Form of the new Oath.]

Y OU shall swear, That you shall well and truly serve our Sovereign Lord the King in the Office of the Sheriff of the County of Yorkshire, and do the Kingdom Profit in all Things that belongeth to you to do by way of your Office, as far forth as you can or may. You shall truly keep the Kingdom's Right: You shall not assent to the Decrease, or lessening, or to Concealment of his Majesty's Rights, or of his Branches: And whatsoever you have Knowledge that his Majesty's Rights have been concealed or withdrawn, to be in Lands, Rents, Branches or Suits, or any other Things, you shall do your true Power to make them to be restored to his Majesty again: And if you may not do it, you shall certify his Majesty, his Council, or some of them thereof. You shall not respite his Majesty's Debts for any Gift or Favour, where you may raise them without great Grievance to the Debtors: You shall truly and rigorously treat the People of your Sheriffwick, and do Right as well to Poor as to Rich, in all that belongeth to your Office: You shall do no Wrong to any Man for any Gift, or other Benefit or Promise of Good, for Favour nor Hate: You shall disturb no Man's Right: You shall truly acquit at the Exchequer all those of whom you shall receive any of his Majesty's Debts: You shall take nothing whereby his Majesty or the Kingdom may lose, or whereby the Right may be letted or disturbed, and his Majesty or the Kingdom delayed: You shall truly return, and truly serve all his Majesty's Writs as far forth as shall be

to your Cunning: You shall not have to be your Under-Sheriff any of the Sheriff's of the last Year past: You shall take no Bailiff into your Service, but such as you will answer for: You shall take Oath of your Bailiffs to make such Oath as you make your self in that which appertaineth to their Occupation? You shall receive no Writ by you nor any of yours unsealed, or any sealed under the Seal of any Justice, saving the Justices of Assize, or Justices assigned in the same Shire where you are Sheriff, or other Justices having Power and Authority to make any Writs unto you by the Law of the Land, or of the Justices of Newgate. You shall make your Bailiffs of true and sufficient Men in the County. Also you shall do all your Power and Diligence to destroy and make to cease all Manner of Heresies and Errors, commonly called Lollaries, within your Bailiwick, from Time to Time, to all your Power, and Skill and be helping to all the Ordinaryes and Commissaries. You shall be dwelling in your own proper Person within your Bailiwick for the Time you shall be in the same Office, except you be otherwise licensed by our Sovereign Lord the King: You shall not let your Sheriffwick, nor any Bailiwick thereof to any Man: You shall truly set and return reasonable and due Issues of them that be within your Bailiwick after their Estate and Behaviour, and make your Panels your self of such Persons as be next most sufficient, and not suspect nor procured, as it is by the Statutes provided. And over this, in checking and Restraint of Manslaughters, Robberies, and other manifold grievous Offences that be done daily, namely, by such as name themselves Soldiers, and by other Vagrants, the which increase in Number and multiply, so that the People of this Kingdom may not in Safety ride, nor go to do such Things as they have to do, to their intolerable Harm and Hindrance: you shall truly and effectually with all Diligence possible to your Power execute the Statutes, as the Statute of Winchester, and for vagabonds. All these Things you shall truly observe and keep, as God you help.

How the Law anciently stood as to Sheriff's Accounts, &c
leave the Curious to see in the Lord Chief Justice *Fitzos*
Treatise on that Subject, and Mr. *Madox*'s excellent History
of the Exchequer; how it stands now, the Reader will best
learn by the following Act of Parliament.

Anno P. **Officiale** Deschize, într-o luncă sănătoasă și frumoasă.

Anno Tertio Georgii Regis,

Cap. 15.

An Act for the better regulating the Office of Sheriffs, and for ascertaining their Fees, and the Fees for suing out their Patents, and passing their Accounts.

Clerks and Officers concerned in passing Sheriffs' Patents, or their Accounts, to take only the Fees in the Schedule annex'd, on Forfeiture to the Party grieved, of £ 1, and treble the Sum taken above the said Fees, with treble Costs to be ordered on Complaint by the Exchequer in a summary Way.

S. 1. FOR the greater Ease of Sheriffs in the Execution of their Offices, and passing their Accounts, be it enacted by the King's most excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by Authority of the same, That the several Officers of his Majesty's High Court of Chancery, Court of Exchequer, and the severest Auditors and Receivers of the Revenue of the Crown in Wales, and their respective Substitutes, Deputies, Agents, Clerks, and all other Officers and Persons whatsoever, having and claiming any Fee or Reward whatsoever to be due and payable to him or them from any Sheriff, Deputy-Sheriff, or Under-Sheriff, of any County in England and Wales, for making out his or their Patents or Commissions, or the *Dicitus* for bearing them into their Office, or for entering their Recognition or Security, or for Writing out and Return of their Proceeds, or for their Apposals, or Casting out of Court, or for passing their Accounts, or for making their *Quitus*, or for any other Matter or Thing whatsoever touching or concerning their Sheriffalty, may from and after the first Day of Michaelmas Term, in the Year of our Lord, One thousand seven hundred and seventeen, severally and respectively, for themselves, and the Persons for whom they act and officiate, receive and take for their Pains and Service in the Matters aforesaid, the several Fees or Sums of Money in the Schedule or List hereafter mentioned or specified: All which Fees in the said Schedule mentioned the said several and respective Officers, Deputies, Clerks, and other Persons, may claim, take and receive, from Time to Time, and shall not demand, take,

take, or receive any other or greater Fee or Reward whatsoever, in any wise touching or concerning the Premises in the said Schedule mentioned, or any other Matter or Thing relating to the Patent or Swearing of any Sheriff, or to the passing of his Accounts ; and if any Person shall offend herein, such Person shall forfeit to the Party aggrieved five Pounds, and treble the Sum by him taken, over and above the just Fees mentioned in the said Schedule, together with his treble Costs ; all which shall be ordered, awarded and given to the Party aggrieved by the Court of Exchequer, upon Complaint and Proof of such Offence made and exhibited before the Barons of the said Court in such short and Summary Way and Method as to them shall seem meet.

§ 2. And whereas the Profers payable by the Sheriffs of the several Counties of England, into the Receipt of the Exchequer at Easter and Michaelmas yearly, remain the same at this Day that they anciently were, although many of the Rents and Certainties, out of which the said Payments arise, have of late Years, been alienated from the Crown : Be it further enacted by the Authority aforesaid, That the Lord High Treasurer of Great Britain, or Commissioners of the Treasury for the Time being, the Chancellor and Chief Baron of his Majesty's Court of Exchequer, and the rest of the Barons of that Court, or any two or more of them, shall and may, from Time to Time, at the Request of any Sheriff or Sheriffs, or as often as they shall think fit, call before them the Remembrancer in the Court of Exchequer, (commonly called the Treasurer's Remembrancer) and the Clerk of the Pipe, or their Deputies, Secondaries, and such other Officers as they shall think fit ; and shall cause the said Officers, or some of them, to bring before them an Account or Particular of all the Rents and Certainties written-out yearly in ProcesSES, to the Sheriff of each respective County in England, to levy for the Crown ; and upon due Examination and Consideration thereof had, are hereby empowered and required, from Time to Time, to alter, diminish, reduce, or establish the several Sums wherewith the said Sheriffs stand, or shall stand, chargeable on the Rolls of Profers in the said Court of Exchequer, to such reasonable and moderate Sums as to them shall seem just and reasonable, with Regard to the Amount or Value of the Rents in each County respectively ; and that Orders of the Court of Exchequer be drawn up pursuant thereto, and entered upon Record in the several Offices of his Majesty's Remembrancer, the Lord Treasurer's, or the Commissioners

The Lord
Treasurer,
Chancellor
of the Ex-
chequer,
and Barons,
or any two
of them,
may order
Clerks and
Officers of
the Exche-
quer, &c.,
to give in
a Particular
of the
Rents and
Certainties
yearly set
in Proces-
ses to
Sheriffs,
and reduce
and settle
the same,
with Re-
gard had
to the Va-
lue of the
Rents of
each Coun-
try, and
Orders
thereupon
to be made
and entered
of Record
in the Ex-
chequer ;
and the Rents so settled to be the Profers of each County, payable to
the Sheriff, and no other.

Of the Office of Sheriffs,

of the Treasury's Remembrancer, and Clerk of the Pipe, some Time before the last Day of Michaelmas Term then next following; and that, from Time to Time, the Sum and Sums of Money so reduced, ascertained and settled, shall be deemed and taken to be the Profers of each respective County, and the Rolls of Profers, from Time to Time, shall be made conformable thereto; and the said Sum and Sums so reduced, ascertained and settled, as aforesaid, and no other, shall be paid by the said respective Sheriffs for their Profers, at the Days and Times, and in the Manner formerly used for Profers.

Sheriff leyying Debts, &c. (except Post-Fines) due to the Crown by Proceeds of the Pipe by Leysi fac. to have 12 d. per Pound for the first 100 l. and 6 d. for every 20 l. above that Sum, and on Proceeds by W. R. and Extent to have 1 l. 6 d. per Pound for the first 100 l. and 1 s. per Pound &c. above. Provided he answer the same on his Accounts by a Day to be fixed by Warrant of the Barons.

Sheriff not obliged to charge in his Accounts Money paid by Virtue of the Acts 4 & 5 W. & M. for apprehending Highwaymen, or 6 & 7 W. 3. for preventing Counterfeiting and Clipping the Coin, or 5 Anne, for apprehending House-breakers; but may on the Judge's Certificate of the Conviction of such Offenders, and the Receipt of the Party entitled to the Reward, apply to the Lord Treasurer, &c. who shall forthwith repay him the Sums so disbursed, without Fee.

§ 3. And be it enacted by the Authority aforesaid, That from and after the ninth Day of July, in the Year of our Lord One thousand seven hundred and seventeen, all Sheriffs who shall leyy any Debts, Duties, or Sums of Money whatsoever, except Post-Fines, due or hereafter to become due to the King's Majesty, his Heirs or Successors, by Process to them directed upon the Summons of the Pipe, or Green Wax, by *Leysi Facias* out of the Court of Exchequer, shall, from Time to Time, for their Care, Pains and Charges, and for their Encouragement therein, have an Allowance upon their Accounts of twelve Pence out of every twenty Shillings, for any Sum not exceeding one hundred Pounds so by them levied or collected; and the Sum of six Pence for every twenty Shillings over and above the first one hundred Pounds; and for all Debts, Duties, and Sums of Money, (except Post-Fines) due, or to become due to his Majesty, his Heirs and Successors, by Process and *Pieri Facias*, and Extent, issuing out of any of the Offices of the Court of Exchequer, the Sum of one Shilling and six Pence out of every twenty Shillings, for any Sum not exceeding one hundred Pounds so by them levied or collected; and the Sum of twelve Pence only for every twenty Shillings over and above the first one hundred Pounds: Provided always such Sheriff shall duly answer the same upon his Account by the General Sealing Day of such Term in which he ought to be dismissed the Court, or in such Time to which he shall have a Day granted to finish his said Accounts, by Warrant signed by the Lord Chief Baron, or one of the Barons of the Coif of the said Court for the Time being, and not otherwise.

§ 4 And whereas by Virtue of an Act made in the 4th and 5th Years of the Reign of their late Majesties King William and his Successors Money paid by Virtue of the Acts 4 & 5 W. & M. for apprehending Highwaymen, or 6 & 7 W. 3. for preventing Counterfeiting and Clipping the Coin, or 5 Anne, for apprehending House-breakers; but may on the Judge's Certificate of the Conviction of such Offenders, and the Receipt of the Party entitled to the Reward, apply to the Lord Treasurer, &c. who shall forthwith repay him the Sums so disbursed, without Fee.

Queen

Queen Mary, for encouraging the apprehending of Highwaymen; and of one other Act made in the sixth and seventh Years of his said late Majesty King William the Third, to prevent Counterfeiting and Clipping the Coin of this Kingdom; and of one other A&t made in the fifth Year of her late Majesty Queen Anne, for encouraging the apprehending of House-breakers, the respective Sheriffs of *England* and *Wales*, are obliged to pay the several Rewards of forty Pounds, as in those A&ts is directed, upon the Convictions of Highwaymen, Clippers, Coiners or House-breakers, to such Person or Persons who shall bring to such Sheriff a Certificate under the Hand of the Judge or Justices before whom such Offenders were convicted, directing Payment thereof, under the Penalty of forfeiting to the Party entitled thereunto double the Sum so certified, with treble Costs of Suit; which said Reward of forty Pounds being so paid, as aforesaid, is by the said several A&ts ordered to be allowed to such Sheriff upon his Account; and if there should not be remaining in the Hands of such Sheriff Monies sufficient for that Purpose, that in such Case the Surplusage occasioned thereby should be repaid to such Sheriff by the Lord High Treasurer, or the Commissioners of the Treasury for the Time being, out of the Revenue of the Crown, upon Certificate thereof from the Clerk of the Pipe, or by the Auditor of *Wales*, as by the said respective Acts may more at large appear: And whereas since the making of the said Acts it hath been found, that many Sheriffs have been put under great Difficulties and Inconveniences thereby, not only by reason of paying down great Sums of Money for the Rewards aforesaid, before the publick Revenue writ out to them in Process could be levied or collected by them, but also that by reason such Sheriff cannot have a Certificate of his Surplusage from the Clerk of the Pipe, or the Auditor of *Wales*, until he hath fully finished his Account, and be dismissed the Court; by which Means the Sheriff is kept a long Time out of his Money so disbursed for the Rewards aforesaid: Be it therefore enacted by the Authority aforesaid, That no Sheriff shall be obliged to bring or charge in his Accounts any Sum or Sums of Money to be paid for the Rewards above-mentioned, or any of them, from and after the ninth Day of July, One thousand seven hundred and seventeen, but shall and may immediately apply for the same to the Lord High Treasurer of *Great Britain*, or Commissioners of the Treasury for the Time being, who, upon inspecting a due Certificate of the Conviction of such Offender or Offenders, for which such Reward shall be ordered to be paid, as aforesaid, by Virtue of the said A&ts, or any of them, together with the Receipts or Acquittances of the Parties entitled to receive the same, shall forthwith repay to such Sheriff or Sheriffs respectively, all such Monies so disbursed and paid, as

Of the Office of Sheriff,

aforesaid, without any Fee or Reward whatsoever; any Thing in the aforesaid Acts, or any of them, contained, to the contrary thereof, in any wise notwithstanding.

No Sheriff or Under-Sheriff shall be attached or taken into Custody by any Officer of the Court of Exchequer, or other Person whatsoever, for not being apposed upon any Writ or Proces for not finishing his Accounts in due Time, or for any Contempt or Neglect whatsoever relating to his Account, but by Writ under the Seal of the said Court of Exchequer, or by Warrant for that Purpose to be signed by the Lord Chief Baron, or one of the Barons of the Coif of the said Court of Exchequer for the Time being, to be executed by the Marshal of the said Court, or his Deputy; in which Warrant the Name of such Sheriff or Under-Sheriff shall be particularly inserted, and his Offence particularly specified and expressed.

Warrant of a Baron to be executed by the Marshal of that Court, or his Deputy, wherein such Sheriff or Under-Sheriff's Name shall be inserted, and his Offence expressed.

S. 6. And for preventing Delays and unnecessary Attendance of Sheriffs in passing their Accounts, be it enacted by the Authority aforesaid, That from and after the first Day of Michaelmas Term, in the Year of our Lord One thousand seven hundred and seventeen, if any Officer, Clerk, or other Person concerned in or about the passing of Sheriffs Accounts, shall wilfully retard or hinder any Sheriff in the passing of his Accounts, or by his wilful Neglect or Absence, or by other undue Means or Ways, prevent any Sheriff from being apposed or cast out of Court in due Time, or after Payment or Tender of his or their due Fees herein ascertained, shall refuse or neglect to inroll, make out, sign, and deliver his *Quetus* in due Time, in every such Case the Person so offending shall make such Recompence and Satisfaction to the Party aggrieved as shall be adjudged, ordered or decreed, by the Barons of the Court of Exchequer, upon Complaint thereof made and exhibited before them in such short and summary Way and Method as to them shall seem meet.

of the Fees, *infra*, shall refuse or neglect to make out, or sign and inroll his *Quetus*, he shall make such Satisfaction to the Party grieved, as the Barons on Complaint shall order in a summary Way.

S. 7. And whereas it frequently happens that a Sheriff may disburse more Money for the Service of the Crown than in *England* (except for *Chester*, *Lancaster*, *Durham*, and the *Wesse克斯* Counties) who shall be in Surplusage by any Disbursements for the King's Service, except the Rewards appointed by the Acts, *supra* S^t. 4. shall be obliged to take out a Record of such Surplusage, but may apply to the Lord Treasurer, who is to pay the same on producing the Clerk or the Pipe's Certificate thereof.

his whole Charge amounteth unto, by reason whereof such Sheriff must necessarily be in Surplusage upon his Account: And whereas such Surplusage cannot be obtained by the usual Course of the Exchequer, but by Record of Surplusage, which is very dilatory and expensive to the Sheriff: Be it therefore enacted by the Authority aforesaid, That from and after the first Day of Michaelmas Term aforesaid, if any Sheriff of any County in England, (except the Counties Palatine of Chester, Durham and Lancaster, and the several Counties of Wales, which do not pass their Accounts before the Clerk of the Pipe) shall happen to be in Surplusage upon his Account, by reason of any Disbursements whatsoever by him made for the Service of his Majesty, his Heirs or Successors (other than for the Rewards of forty Pounds severally and respectively allowed and given by Virtue of the several Acts herein before mentioned, to such Persons as shall apprehend a Clipper, Coiner, Highwayman, or House-breaker) such Sheriff shall not be obliged to take out a Record of Surplusage for the same, but shall and may apply to the Lord High Treasurer of Great Britain, or to the Commissioners of the Treasury for the Time being, for the Payment of such Surplusage, who are hereby required and authorized to pay the same upon the Sheriff's producing a Certificate of such Surplusage from the Clerk of the Pipe, or his Deputy.

§. 8. And whereas great Inconveniences have arisen by the Death of Sheriffs, during the Time of their Sheriffalty; be it enacted by the Authority aforesaid, That if any High-Sheriff of any County in England or Wales shall happen to die before the Expiration or Determination of his Year, or before he be lawfully superseded, in such Case the Under-Sheriff or Deputy-Sheriff by him appointed, shall nevertheless continue in his Office, and shall execute the same, and all Things belonging thereunto, in the Name of the said deceased Sheriff, until another Sheriff be appointed for the said County, and sworn in Manner as is herein after directed; and the said Under-Sheriff or Deputy-Sheriff shall be answerable for the Execution of the said Office in all Things, and to all Respects, Intent and Purposes whatsoever, during such Interval as the High Sheriff so deceased would by Law have been if he had been living; and the Security given to the High Sheriff so deceased by the said Under-Sheriff, and his Pledges, shall stand, remain, and be a Security to the King, his Heirs and Successors, and to all Persons whatsoever, for such Under-Sheriff's due Performance of his Office during such Interval.

deceased Sheriff would have been; and the Security given by the Under-Sheriff to the deceased, for due Performance of his Office, is to continue during such Interval.

When a Sheriff by Exchequer-Process seizes or extends Goods or, personal Estate for the King's Debts, and dies, or is superseded before a *Venditioni exponeas* awarded, or Sale, and the subsequent Sheriff makes Sale, &c. The Exchequer-Court, if sitting, or if not, any Baron may settle and apportion the Fees or Poundage between the precedent and subsequent Sheriffs, Regard being had to the Expences and Trouble of each Sheriff.

None shall buy, sell, let, or take to farm any Office of Under-Sheriff, Deputy-Sheriff, Seal-keeper, County-Clerk, Shire-Clerk, Gaoler, Bailiff, or other Office pertaining to the Sheriff; nor contract for, promise, or grant for Money, &c. nor give, take, promise, or receive any Consideration by themselves or others in the same, or Renteiture of 500*l.* one half to the King, and the other to him that prosecutes in any Court at Westminster within two Years.

S. 9. And whereas it frequently happens that the Process issuing out of the Court of Exchequer, for levying Debts and Duties due to the Crown, may be in Part executed by a Sheriff before he be superseded, and afterwards in Part by the subsequent Sheriff, and no Provision hath hitherto been made for settling and adjusting the Distribution of the Fees and Poundage claimed and demanded by them in such Cases: Be it therefore enacted by the Authority aforesaid, That when and so often as any Sheriff shall, by Process out of the Court of Exchequer, seize or extend any Goods, Chattels, or personal Estate, into the Hands of his Majesty, his Heirs or Successors, for any Debts or Duties due to the Crown, and shall die, or be superseded before a Writ of *Venditioni exponeas* be awarded to him for Sale of the same, or before such Sheriff hath made actual Sale thereof, and a Writ shall afterwards be awarded to a subsequent Sheriff, who by Virtue thereof shall make Sale or Disposition of such Goods, Chattels, and personal Estate, so seized or extended by such preceding Sheriff, as aforesaid, in such Case the Barons of the Court of Exchequer, if then sitting, and if not sitting, the said Barons, or any one of them, being of the Degree of the Coif, shall order, settle and apportion the Fees or Poundage due for such Seizure and Sale betwixt such preceding and subsequent Sheriffs, in such Manner and Proportions as to him or them shall seem meet, with Regard to the Expence and Trouble each respective Sheriff hath had or shall have in the Execution of the said Process.

S. 10. And whereas the Office of Under-Sheriff, and other Offices and Places in the Disposal of the High-Sheriff, have of late Years been frequently sold, and let to farm, contrary to several Statutes heretofore made for restraining Sheriffs from such Practises, and contrary to the Oath and Duty of a Sheriff, whereby many and great Inconveniences have happen'd to the Subjects of this Realm by the Oppressions and Exactions of Under-Sheriffs, Bailiffs, and other Officers concerned in the Execution of the King's Process: For Remedy whereof be it enacted by the Authority aforesaid, That from and after the said twenty-ninth Day of September, in the Year of our Lord, One thousand seven hundred and seventeen, it shall not be lawful to or for any Person or Persons whatsoever,

to buy, sell, let, or take to farm, the Office of Under-Sheriff, Deputy-Sheriff, Seal-Keeper, County-Clerk, Shire-Clerk, Gaoler, Bailiff, or any other Office or Place pertaining to the Office of High-Sheriff of any County or Shire in England or Wales, or to contract for, promise, or grant for Money, or other Reward or Benefit, the said Offices or Places, or any of them; nor to give, take, promise, or receive any other Consideration whatsoever for the said Offices, or any of them, directly or indirectly, by themselves, or any Person in Trust for them, or for their Use; and whosoever shall offend therein, shall forfeit the Sum of five hundred Pounds, a Moiety whereof to his Majesty, his Heirs and Successors, and the other Moiety thereof to such Person or Persons as shall sue for the same, to be recovered by Action of Debt, Bill, Plaintiff or Information, in any of the Courts of Record at Westminster, in which no Essoin, Protection, or Wager of Law shall be allowed, nor any more than one Impariment: Provided, That such Suit be commenced within two Years after such Offence committed, and not otherwise.

S. 11. Provided, That nothing in this Act before contained shall any ways hinder or prevent such High-Sheriff from constituting and appointing an Under-Sheriff, or Deputy-Sheriff, to act in his stead, as by Law he may and ought to do; nor to hinder the Under-Sheriff, in case of the High-Sheriff's Death, when he acts as High-Sheriff, from constituting or appointing a Deputy, which he is hereby empowered to do; nor to hinder, prevent, or abridge such Sheriff, or Under-Sheriff, from demanding, taking or receiving the just and lawful Fees and Perquisites of the Office of Sheriff, or any Place or Employment pertaining thereunto, or for taking Security for the due answering the same; nor to discharge, hinder or prevent such Under-Sheriff, Deputy-Sheriff, Seal-Keeper, County-Clerk, Shire-Clerk, Gaoler, Bailiff, or other Person having or executing any Place or Office under such Sheriff, from accounting to the High-Sheriff for all such just and lawful Fees and Perquisites as shall by them, or any of them, be taken and received in their respective Offices, Places or Employments, nor for giving Security so to do; nor to hinder or prevent the High-Sheriff from allowing or securing such Salary or Recompence to his Under-Sheriff, Deputy-Sheriff, Seal Keeper, County-Clerk, Shire-Clerk, Gaoler, Bailiff, or other Officer, for the Execution of the said Offices,

But nothing ~~else~~ shall hinder a Sheriff from appointing an Under-Sheriff, or Deputy-Sheriff, nor an Under-Sheriff acting as High-Sheriff on his Death, &c. from appointing a Deputy, nor from taking the Fees of their Office, or of any Place or Employment pertaining

thereto, or taking Security for answering the same; nor discharge any Officer, in Sect. 10. from accounting to the Sheriff for Fees, &c. received, or giving Security so to do; nor hinder the Sheriff from allowing Salaries to the Under-Sheriff, and other Officers, for executing their Offices, nor any of them, from receiving the same.

Places, or Employments, or any of them, as to him shall seem meet; nor to hinder or prevent the Under-Sheriff, Deputy-Sheriff, Seal-Keeper, or other Officer or Person aforesaid, from taking and receiving such Salary or Recompence for his or their Pains and Services therein.

Besides the Penalties in the Acts of 22 & 23 Car. 2. for better Recovery of Fines and Forfeitures to the King made perpetual by

4 & 5 W. & M. The Barons may amerce

Clerks of Assizes, of the Peace, of Commissioners of Sewers, Clerks of the Market, Town-Clerks, &c. refusing or neglecting to return Eſtreats into the Exchequer, according as the said Act directed.

And may cause such Amerciaments to be levied as usual.

No Sheriff, or other employed in levying Debts to the Crown to become due to his Majesty, his Heirs or Successors, by

Exchequer-Procesſ, shall take any Fee or Reward for levying or collecting the same, except 4 d. only for an Acquittance, which the Officer receiving is to give to the Party paying, and account for the same to the Sheriff, or his Deputy, and may take an Acquittance from the Sheriff, &c. without Fee. And the Sheriff is to answer it on his Account in the Exchequer.

Procesſ

S. 12. And for the more effectual enforcing and obliging the respective Clerks of Assizes, Clerks of Peace, Clerks of the Commissioners of Sewers, Clerks of the Market, Town-Clerks, or other Persons to whom it doth or may belong to make Returns of Eſtreats into the Court of Exchequer, to make out and deliver their respective Eſtreats, Duplicates, Certificates and Schedules, in due Time, so that the Sheriff may not be hindered or retarded in the passing his Account for Want of the ſaid Eſtreats, according to the Direction, Purport and Intent of an Act made in the two and twentieth and three and twentieth Years of the Reign of his late Majesty King Charles the Second, Intituled, *An Act for the better and more certain Recovery of Fines and Forfeitures due to his Majesty*, and made perpetual by an Act made in the fourth and fifth Years of the Reign of their late Majesties King William and Queen Mary; be it enacted by the Authority aforesaid, That over and above the Penalties mentioned in the ſaid Acts, or either of them, it shall and may be lawful to and for the Barons of the Court of Exchequer, from Time to Time, to amerce such Clerk of the Assize, Clerk of the Peace, Clerk of the Commissioners of Sewers, Clerk of the Market, Town-Clerk, or other Person, to whom it doth or may belong to make Returns of Eſtreats into the ſaid Court of Exchequer, as aforesaid, for refusing, neglecting, or omitting to perform, and do his or their Duty in returning the ſaid Eſtreats, at the Times and according to the Direction, Purport and Intent of the ſaid two Acts, and to cause the ſaid Amerciaments to be levied and answered by such Ways and Means, and in such Manner, as other Amerciaments ſet in the ſaid Court may or have been used to be done.

S. 13. And for preventing of Oppreſſions and Injuries which may happen to his Majesty's Subjects, by the Abuse of Sheriffs, Bailiffs, and others employed in levying and collecting any Debts, Duties, or Sums of Money, due, or hereafter

to become due to his Majesty, his Heirs or Successors, by

Process of the Court of Exchequer; be it enacted by the Authority aforesaid, That no Sheriff, Under-Sheriff, Bailiff, or other Person employed in levying or collecting any of the said Debts, Duties, or Sums of Money, shall take, ask, or receive any Fee, Gratuity or Reward whatsoever, of the Person or Persons liable to pay the said Debts, Duties, or Sums of Money, or of any other Person, for or upon Pretence of such levying or collecting, except the Sum of four Pence only for an Acquittance for such Sum as shall be so levied or collected; which Acquittance such Officer is hereby required to give and deliver to the Person upon, or from whom such Debt shall be levied, collected, or received; and the Bailiff, or other Person receiving such Debt or Sum of Money, shall from Time to Time answer and account for the same to the Sheriff, or his Deputy, and may require an Acquittance also from such Sheriff, or his Deputy, for such Sum, who are hereby required to give the same, without any Fee or Reward; of and from such Debts or Sums of Money so levied, collected or received, as aforesaid, the said Sheriffs, and every of them, shall effectually discharge the said Debtors and Persons respectively, by totting and answering the same to his Majesty, his Heirs and Successors, upon their respective Accounts in the Exchequer.

§. 14. And in case any Sheriff, Under-Sheriff, or Deputy-Sheriff shall nichil, or not duly answer to the Crown any Debt or Sum of Money so levied, collected or received, such Sheriff, Under-Sheriff, or Deputy-Sheriff, for every such Offence shall forfeit treble Damages to the Party aggrieved, and double the Sum nichilled, or not duly answered, as aforesaid; which said Damages and Penalty shall be ordered, decreed, and given to the Person aggrieved in the Court of Exchequer, upon Complaint and Proof of such Abuse, as aforesaid, made and exhibited before the Barons of the said Court, in such short and summary Way and Method, as to them shall seem meet: And in case any Sheriff, Under-Sheriff, Deputy-Sheriff, Bailiff, or other Person, shall presume to demand, take, or receive any Sum or Sums of Money whatsoever, be the same more or less, of any Person whatsoever, from whom any Debt or Sum of Money is, or shall be due and payable to the Crown, by Process out of the Court of Exchequer, for or in Respect, or upon Pretence of executing the said Process,

And if a Sheriff, &c. shall nichil or not answer such Debts collected, he forfeits for each Offence treble Damages to the Party, and double what is so nichil'd, or not answered, to be ordered by the Court of Exchequer.

on Complaint and Proof, in a summary Way; and if a Sheriff or other demands or takes any Money for executing such Process, or (as Fees) for collecting such Debts, or for not levying, or forbearing to levy any Debt to the Crown so written in Process, and thereon convicted, he is guilty of Extortion, and forfeit treble Damages and Costs to the Party grieved, and double the Sum extorted, to be ordered by the Exchequer in a summary Way on Complaint and Proof, if convicted within two Years after the Offence.

Of the Office of Sheriffs,

or for or in Respect, or upon Pretence of Fees due to them, or any of them, for collecting or receiving the same, contrary to the true Intent and Meaning of this Act; or if any of the Officers, or Persons aforesaid, shall demand, take and receive any Sum or Sums of Money whatsoever, for not levying, or forbearing to levy any Debts, Duties, or Sums of Money which are or shall be due to his Majesty, his Heirs and Successors, and written out to them, or any of them, by the Proces aforesaid, in all and every such Case, every Person so offending, and thereof lawfully convicted, shall be adjudged, deemed, and taken to be guilty of Extortion, Injustice, and Oppression, and all and every such Person and Persons, being thereof lawfully convicted, shall forfeit for every such Offence treble Damages and Costs to the Party aggrieved, and double the Sum so extorted; All which Damages and Penalties shall be ordered, decreed, and given by the Barons of the Court of Exchequer, upon Complaint and Proof of such Extortion made and exhibited before them, in such short and summary Way and Method as to them shall seem meet, as aforesaid: Provided such Conviction be had and made within two Years after such Offence committed, and not otherwise.

But the Sheriff may take such Poundage and Allowance as given by this Act, or by Warrant of the Lord Treasurer, or Chancellor or Barons of the Exchequer, for any extraordinary Service to the

S. 15. Provided, that nothing in this Act contained shall be construed to deprive any Sheriff of such Poundage or Allowance as is allowed and given to them by Virtue of this Act, or of such Poundage, Allowance or Reward, as may hereafter be made, allowed, and given to them, or any of them, by Warrant or Order from the Lord High Treasurer, or Commissioners of the Treasury, Chancellor of the Exchequer, or Barons of the Court of Exchequer for the Time being, for or in Respect of any extraordinary Service to the Crown that may happen to be performed by them, or any of them, but that the said Sheriffs shall and may enjoy the full Benefit and Advantage of such Poundage, Allowance and Reward, without any Impeachment or Molestation whatsoever; any Thing in this Act contained to the contrary thereof in any wise notwithstanding.

Crown performed by him.

All Orders and Decrees made by the Bar-

S. 16. And be it enacted by the Authority aforesaid, That whatever Orders or Decrees shall be made by the Barons of the Court of Exchequer, for Costs, Damages and Penalties, or the Exchequer for Costs, Damages, or Penalties by this Act ordered in a summary Way, to have the same Force and Effect as any other Order or Decree of the Court; and such Costs, &c. raised and levied by such Process as is there used to enforce a Compliance with other Orders or Decrees.

in the Cases aforesaid, or any of them, or in any other Case in this Act hereafter mentioned, by Virtue and in Pursuance of this Act, in such short and summary Way and Method as is herein before directed and prescribed, shall have the same Effect, Force and Virtue, to all Intents and Purposes, as any other Order or Decree of the same Court; and the said Costs, Damages and Penalties shall be raised, levied and obtained, by such Process, Ways and Methods as are used in the said Court, to enforce a Compliance with any other Orders or Decrees of the same Court.

S. 17. And for ascertaining the Fees for executing of Writs of *Elegit*, so far as the same relate to the extending of real Estates, and for ascertaining the Fees for executing of Writs of *Habere facias Possessionem aut Seisinam*, be it enacted by the Authority aforesaid, That from and after the last Day of Michaelmas Term, in the Year of our Lord one thousand seven hundred and seventeen, it shall not be lawful for any Sheriff, Under-Sheriff, Deputy-Sheriff, or their Bailiffs, or for the Bailiff of any Franchise or Liberty, or any of them, by Reason or Colour of their Office or Offices, or by Reason or Colour of their executing of any Writ or Writs of *Habere facias Possessionem aut Seisinam*, to demand, ask, or receive, any other or greater Consideration, Fee, Gratuity or Reward than is hereafter mentioned (which shall be lawful to be demanded and taken) that is to say, the Sum of twelve Pence for every twenty Shillings of the yearly Value of any Manor, Messuage, Lands, Tenements and Hereditaments, whereof Possession or Seisin shall be by them, or any of them given, where the whole exceedeth not the yearly Value of one hundred Pounds, and the Sum of six Pence only for every twenty Shillings per Annum, over and above the said yearly Value of one hundred Pounds.

Possession or Seisin shall be given, where the whole exceeds not 100*l.* for every 20*s.* above 100*l.* yearly Value.

S. 18. And whereas it often happens that small Sums only are remaining due upon Judgments, Statutes and Recognizances, given, acknowledged, and entered into, for great Sums and Penalties, and nevertheless in these Cases upon executing

Judgment, Statute or Recognizance (*whereof Part is paid*) for any greater Sum than what remains due, and claim'd by the Plaintiff thereon, who is to mark the same on the Back of the Writ before 'tis delivered to the Sheriff; any Sheriff, Under-Sheriff, Deputy, Bailiff, &c. offending, and lawfully convicted, is guilty of Extortion, &c. and for each Offence refers to the Party grieved treble Damages, and double what is so extorted, to be ordered by the Court which issued the Writ, on Complaint and Proof in a summary Way; and also 200*l.* one half to the King, and the other to the Prosecutor, in any Court at Westminster, it sued within two Years after the Offence.

No Sheriff,
Under-
Sheriff,
Deputy, or
Bailiff of
any Fran-
chise, &c.
shall for
executing
a Hab. fac.
Possessionem
aut Seisi-
nam, &c.
mand or
receive
above 12*d.*
per lb. of
the yearly
Value of
anyManor,
Messuage,
Lands,
Tenements
or Heredi-
taments,
whereof
per Annum

Poundage
not to be
taken for
executing
any Co. So.
upon any

Of the Office of Sheriffs,

of Writs of *Capias ad satisfaciendum*, the Sheriff demands and takes for his Fees Poundage for the whole Money for which such Judgments, Statutes or Recognizances, are entred and acknowledged; which Poundage often far exceeds the Debts due to the Plaintiffs in such Writs: For remedying of which Grievance and Inconvenience, be it enacted by the Authority aforesaid, That from and after the said last Day of Michaelmas Term, one thousand seven hundred and seventeen, Poundage shall in no Case be demanded or taken, upon executing of any Writ of *Capias ad satisfaciendum*, or upon charging any Person in Execution by Virtue of such Writ for any greater Sum than the real Debt *bona fide* due and claimed by the Plaintiff amounteth unto; which Sum the Plaintiff shall be, and is hereby obliged to mark and specify on the Back of such Writ, before the same be delivered to the Sheriff to be executed; and in case any Sheriff, Under-Sheriff, Deputy-Sheriff, Bailiff, or other Person shall offend against the true Meaning hereof, by taking any greater Fees, Gratuity or Reward, than is herein before allowed, every such Person so offending as aforesaid, and being thereof lawfully convicted, shall be adjudged, deemed and taken to be guilty of Extortion, Injustice and Oppression; and all and every such Person and Persons, being thereof lawfully convicted, as aforesaid, shall, for every such Offence forfeit to the Party aggrieved treble Damages, and double the Sum so extorted; which said Damages and Penalties shall be ordered, decreed, and given to the said aggrieved Party by the Court out of which such Writ or Writs issued, upon Complaint and Proof of such Extortion made and exhibited before the Judges of such Court, in such Short and Summary Way and Method as to them shall seem meet; and over and above the said Damages and Penalties, every such Person so offending and convicted, as aforesaid, shall forfeit the Sum of two hundred Pounds; one Moiety whereof shall be to the King's Majesty, his Heirs and Successors, and the other Moiety thereof to such Person or Persons as shall so sue for the same, to be recovered by Action of Debt, Bill, Plaintiff, or Information, in any of the Courts of Record at Westminster, in which no Essoin, Protection, or Wager of Law shall be allowed, nor any more than one Impariment: Provided such Suit be commenced within two Years after such Offence committed, and not otherwise: And provided likewise, That no Person be sued or prosecuted by Virtue of this Act, for any Offence of this Kind committed before the said last Day of Michaelmas Term, one thousand seven hundred and seventeen.

S. 19. And be it enacted by the Authority aforesaid, That instead of the Oath usually administered to Sheriffs at the entering upon their Offices, the following Oath shall be taken by them, and each of them respectively, (excepting the Sheriffs of

of the several Counties in Wales, and of the County-Palatine
of Chester; viz.

The High Sheriff's Oath.

IA. B. do swear, That I will well and truly serve the King's Majesty in the Office of Sheriff of the County of, &c. and promote his Majesty's Profit in all Things that belong to my Office, as far as I legally can or may; I will truly preserve the King's Rights, and all that belongeth to the Crown; I will not assent to decrease, lessen, or conceal the King's Rights, or the Rights of his Franchises; and whensoever I shall have Knowledge that the Rights of the Crown are concealed or withdrawn, be it in Lands, Rents, Franchises, Suits or Services, or in any other Matter or Thing, I will do my utmost to make them be restored to the Crown again; and if I may not do it my self, I will certify and inform the King thereof, or some of his Judges; I will not respite or delay to levy the King's Debts for any Gift, Promise, Reward or Favour, where I may raise the same without great Grievance to the Debtors; I will do Right as well to Poor as to Rich in all Things belonging to my Office; I will do no Wrong to any Man for any Gift, Reward, or Promise, nor for Favour or Hatred; I will disturb no Man's Right, and will truly and faithfully acquit at the Exchequer all those of whom I shall receive any Debts or Duties belonging to the Crown; I will take nothing whereby the King may lose, or whereby his Right may be disturbed, injured, or delayed; I will truly return, and truly serve all the King's Writs, according to the best of my Skill and Knowledge; I will take no Bailiffs into my Service but such as I will answer for, and will cause each of them to take such Oaths as I do, in what belongeth to their Business and Occupation; I will truly set and return reasonable and due Issues of them that be within my Bailiwick, according to their Estate and Circumstances, and make due Panels of Persons able and sufficient, and not suspected or procured, as is appointed by the Statutes of this Realm; I have not sold, or let to farm, nor contracted for, nor have I granted or promised for Reward or Benefit, nor will I sell, or let to farm, nor contract for, or grant for Reward or Benefit, by my self, or any other Person for me, or for my Use, directly or indirectly, my Sheriffwick, or any Bailiwick thereof, or any Office belonging thereto, or the Profits of the same, to any Person or Persons whatsoever; I will truly and diligently execute the good Laws and Statutes of this Realm; and in all Things well and truly behave my self in my Office for the Honour of the King, and the Good of his Subjects, and discharge the same according to the best of my Skill and Power.

The High
Sheriff's
New Oath.
- 1616 - 1616
won't this
do?

So help me God.

Of the Office of Sheriffs,

S. 20. And be it enacted by the Authority aforesaid, That the following Oath shall be taken by all Under-Sheriffs of any County or Counties in South-Britain, except the several Counties of Wales, and County-Palatine of Chester, before they enter upon the Execution of their Offices respectively; viz.

The Under-Sheriff's Oath.

The Under-Sheriff's new Oath.

I A. B. do swear, That I will well and truly serve the King's Majesty in the Office of Under-Sheriff of the County of, &c. and promote his Majesty's Profit in all Things that belong to the said Office, as far as I legally can or may; I will preserve the King's Rights, and all that belongeth to the Crown; I will not assent to decrease, lessen, or conceal the King's Rights, or the Rights of his Franchises; and whosoever I shall have Knowledge that the Rights of the Crown are concealed or withdrawn, be it in Lands, Rents, Franchises, Suits, or Services, or in any other Matter or Thing, I will do my utmost to make them be restored to the Crown again; and if I may not do it myself, I will certify and inform some of his Majesty's Judges thereof; I will not respite or delay to levy the King's Debts, for any Gift, Promise, Reward or Favour, where I may raise the same without great Grievance to the Debtors; I will do Right as well to Poor as to Rich, in all Things belonging to my Office; I will do no Wrong to any Man for any Gift, Reward or Promise, nor for Favour or Hatred: I will disturb no Man's Right, and will truly and faithfully acquit at the Exchequer all those of whom I shall receive any Debts, Duties, or Sums of Money belonging to the Crown; I will take nothing whereby the King may lose, or whereby his Right may be disturbed, injured, or delayed; I will truly return, and truly serve all the King's Writs to the best of my Skill and Knowledge; I will truly set and return reasonable and due Issues of them that be within my Bailiwick according to their Estates and Circumstances; and make due Panels of Persons able and sufficient, and not suspected or procured, as is appointed by the Statutes of this Realm; I have not bought, purchased, or taken to farm, or contracted for, nor have I promised or given any Consideration, nor will I buy, purchase, or take to farm, or contract for, promise, or give any Consideration whatsoever, by my self, or any other Person for me, or for my Use, directly or indirectly, to any Person or Persons whatsoever, for the Office of Under-Sheriff of the County of, &c. which I am now to enter upon and enjoy, nor for the Profits of the same, nor for any Bailiwick thereof, or any other Place or Office belonging thereto; I have not sold, nor contracted for, or let to farm, nor have I granted or promised for Reward or Benefit, by my self, or any other Person for me, or for my Use, directly or indirectly, any Bailiwick thereof, or any other Place or Office belonging thereto; I will truly and diligently execute the good Laws and Statutes of this Realm; and in all Things well and truly behave my self in my said Office for his Majesty's Advantage, and for the Good of his Subjects, and

and discharge my whole Duty according to the best of my Skill and Power:

be it enacted by the King to the Parliament of England, *Seal of the Commonwealth of England.*

S. 21. Which said Oath is hereby ordered and enacted to be administered and given by such Commissioners as shall be named and authorized to administer the foregoing Oath to the High Sheriff in the Country, when and so often as a Commission or Peculiar shall be issued forth of the proper Court for that Purpose, or by the Barons of the said Court, or one of them, when the said Sheriff's desire to be sworn in Town.

S. 22. Provided that the Sheriffs of Wales, and the County-Palatine of Chester, shall not be obliged to take the aforesaid Oaths, or either of them, but shall still take the usual and accustomed Oaths as they have formerly done, (except the Words following, viz.) *Ie shall be dwelling in your own proper Person within your Bailliewick for the Time ye shall continue in the same Office (except ye be otherwise licensed by the King,) which Words shall hereafter be left out of the laid Oaths.*

S. 23. Provided that this Act, or any Thing therein contained, shall not extend to the Sheriffs of London and Middlesex, the County-Palatine of Durham, the County of Westmorland, or to the Sheriffs of any City or Town, being a County of it self, or to any of them, as to their placing in or disposing of any of the Offices, Places, or Employments of their Under-Sheriffs, County-Clerks, Bailiffs, or other Officers, or their Continuance therein, or Town, being a County, as to their disposing of the Offices of Under-Sheriffs, County-Clerks, Bailiffs, &c.

S. 24. And whereas by an Act made in the four and five Sheriffs in and thirtieth Years of King Henry the Eighth, Intituled, *An Act for certain Ordinances in the King's Majesty's Dominions, and Principality of Wales,* it is, amongst other Things, enacted, *That there shall be Sheriffs in every of the twelve Shires of Wales, as Wales, yearly appointed by the King's Majesty;* and that the said Sheriffs shall yearly account before such the King's Auditor or Auditors, as shall be assigned and appointed by the King's Majesty for his Dominions of Wales; be it therefore enacted and declared by the Authority aforesaid, *That the said Sheriffs of Wales shall not be compelled to appear to be apposed in his Majesty's Court of Exchequer;* but shall account before his Majesty's said Auditor, or the Auditors in the Principality of Wales, and not elsewhere, any Law, Statute, Custom or Usage, to the contrary notwithstanding: And that the *Quetus* of the said Sheriffs, under the Auditor's

Q

Hand,

The Office of Sheriff,

Hand, or his Deputy, shall be a sufficient Discharge for the said Sheriff in that Behalf.

Sheriffs of Cheshire, Lancashire and Durham to account before the Auditors of those Counties, as by Stat.

13 & 14
Geo. I. and
from those
Auditors.

S. 25. And whereas by the Act made in the thirteenth and fourteenth Years of the Reign of King Charles the Second, Intituled, *An Act for preventing the unnecessary Charge of Sheriffs, and for Ease in paying their Accounts*, it was, amongst other Things, provided, That the Sheriffs of the County of Cheshire, Lancashire and Durham, being Counties-Palatine, as to their Manner of accounting, shoud account before the respective Auditors of the laid Counties only, and not elsewhere, &c. It enacted and declared by the Authority aforesaid, That the respective Auditors of the laid Counties, or their Deputies, by Virtue of their respective Offices shall and may take, state and allow the Accounts of the Sheriffs of the laid respective Counties, and appose the said Sheriffs respectively touching the Execution of the Proceeds to them respectively directed, called the King's Proceeds; and that the said respective Sheriffs, upon such their Accounts, touching the Premises, shall and may have, sue forth, and obtain their respective Quicnesse and Discharge from the said respective Auditors, or their Deputies, according to their ancient Course and Usage of the Sheriffs of the said Counties-Palatine only.

S. 26. And be it further enacted by the Authority aforesaid, That the Sheriffs of the City and County of the City of Chester, and their Successors, shall and may account, as formerly, before the Mayor of the same City, and his Successors, for before the Time being, for and touching all such Matters and Things as have been heretofore granted from the Crown to the same City in and by their several and respective Charters.

But for other Matters not so granted, before the Auditor of the County, as the Sheriff of that County are appointed to do.

S. 27. And as for and concerning all other Matters and Things whatsoever, not mentioned to be granted in or by the Charters of or to the same City, and for which the Sheriffs of the same City are, or ought to be accountable, to his Majesty, his Heirs and Successors, it is hereby further declared and enacted by the Authority aforesaid, That the Sheriff of the said City of Chester, and their Successors, shall at all Times hereafter account for and concerning the same, before, and be apposed by, and obtain their Quicnesse and Discharge from the Auditor of the County of Chester, or his Deputy, in like Manner as the Sheriffs of the laid County of Chester are by this Act appointed to do, and not elsewhere, or in any other Manner whatsoever.

**The SCHEDULE or LIST in the
Act mentioned, viz.**

**A SCHEDULE of FEES to be paid for
passing the Patents of the several Sheriffs
of England and Wales.**

The Charge taken and received in the Courts of Chancery
on Account of suing out of the Patents of the several
Sheriffs of England and Wales, that are sued out
there, for each the Particulars are as followeth:

TH^E King's Duty for Stamps,
To the Serjeant-Trumperet,
To the Master of the Rolls,
Signing the Docket,
Hanaper Fee,

The Six Clerks Fee on the Patent, Writ of Affiance, Writ of Discharge, and Dedimus Patenter. Vol. 07

For ingrossing the Patent, Writ of Assistance,
Writ of Discharge, *Dedimus Processtam*, the three Oaths, the Docket-Parchment, and attending the sealing the Patent, The Recognizance and Duty in a *Wills* Patent, more. — or 14 04 — 03 06

A SCHEDULE of FEES to be paid
by the Sheriffs of England and Wales for
passing their Accounts.

*Fees to be paid to the Clerk of the Pipe at the Apposal of
Sheriffs.*

Cant' Gumbz'

<i>l.</i>	<i>s.</i>	<i>d.</i>
01	13	04
01	13	04

Ebor

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Ebor'	05	—	—
Hunt'	01	06	08
Lond' and Mid'sex	02	—	—
Lincoln	02	13	04
Monmouth	01	13	04
Northumber'	01	13	04
Rutland	02	06	08
Westmor'	01	06	08
The rest of the Counties of England, each,	02	—	—

1000 to be paid to the Clerk of the Rolls for the Allowance of
the Court, used for the Queen's and Chanceller's Allow-
ance.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
Cantab' Hunt'	04	03	04
Cumb'	01	06	08
Ebor'	01	06	08
Kent	04	03	04
Lond' Mid'sex	05	06	08
Monmouth	02	16	08
Northumber'	08	01	08
Rutland	01	13	04
Westmor'	04	06	08
The rest of the Counties of England, each	04	06	08

To give to the Clerk of the Rolls for the Allowance of
Casual Fees to the Clerk of the Rolls for the Allowance of
Justices Wages in the Counties following; viz.

Ebor'	For Inquisition in the Pleas. When to be Affidavite.
Lond' Mid'sex	When to be Affidavite, the Doctor of Physicians has to pay the Expenses of the Pleas.
Lincoln	For Inquisition in the Pleas. When to be Affidavite.
The rest of the Counties of England, if any such	08
Allowance be made,	08
For setting of a Seizure or Debt by Petition, or	01
Judgment of Court, when it happens,	01
For Allowance of a Record of Sermiges for	01
the first five Pounds,	05
For every other five Pounds,	03

To be paid to the Clerk of the Rolls for the Allowance of
Sermiges before Account is settled.

10	8	10
00	13	10
7000		

Fees to be paid to the Clerk of the Pipe for the several Cities and accounting Towns for their whole Account, and Quietus therupon.

40	£1	40			
-	do	-			
10	10				
Civit' Bristol'					
Civit' Glouc'					
Civit' Ebor'					
Vil' Novi Castris					
Civit' Canuar'					
Civit' Coventry					
Civit' Exon'					
Civit' Litchf'					
Civit' Lincoln					
Civit' Norwic'					
Vil' Kingston super Hull					
Vil' Nor'	80				
Vil' Pool					
Vil' South'ton					

Fees to be paid to the Secondaries and others the Sworn Clerks in the said Office, at the Apposals of Sheriffs at the coming into their Account, and writing their annual Books, together with the Vouchers of the Footmen Change of their whole Account.

40	£1	40			
20	do	20			
10	do	10			
Beds'	80				
Bucks'					
Berk'					
Durk'					
Canc' Hunt'					
Cornwall'	10				
Cumb'	80				
Distr' 81	80				
Devon'	22				
Dorset'	80				
Essex'	80				
Ebor'	40				
Glouc'	80				
Heres'	80				
Hert'	20				
Kant'	80				
Lincoln'	40				
Linc'					

	l.	s.	d.
Lion' Mid'sex, two Sugar Loaves, and	04	11	11
Monmouth	03		
Norf'	03	13	04
North'ton	04	10	—
Northumber'	04	13	04
Nott'	05	10	—
Oxon'			
Rut' ¹⁰	03	06	03
Surr'	03	13	04
Suffex	{ each		
Salop	{ each		
Suff'			
South'ton	07	13	04
Staff'	05	13	04
Somers'	09	06	04
Westmori'	02		
Warr'	03	16	04
Wigorn'	08		
Wilts	08	11	04

Fees for casting out of Courts, and for Quiets, &c.

Bed'	06	11	04
Bucks'	06	06	08
Berk's'	03	06	08
Cant' Hunt'	04	13	04
Cornub'	03	13	04
Cumbr'	04	13	04
Derb'	03	06	08
Devon'	06	13	04
Dors'	11	06	04
Esz'	23	06	08
Esdr'	07	06	08
Glouc'	06	—	
Hert'	06	13	04
Kant'	11	13	04
Lincoln	06	—	
Leic'	08	06	08
Lion' Mid'sex two Sugar Loaves, and	04	—	
Monmouth	03	—	
North'ton	07	06	08
Norf'	06	06	08
Nott'	04	13	04
Northumber'	04	—	

	<i>for Sheriff's fees</i>	<i>for Sheriff's fees</i>	<i>for Sheriff's fees</i>
Exon'	98	06	08
Rutl'	02	—	—
Staff'	06	13	04
Surr'	3 each	of	16
Sussex	10 pds to each County & Town	of	16
Salop	—	in each County,	06
Suff'	—	each County & Town.	06
South' ton	5 each gainfully employed	of	16
Somerc'	5 each in the County & Town.	of	16
Westmor'	—	—	—
Wardo'	—	—	—
Wigorn'	—	—	—
Wiltsh'	—	—	—

no Fees of Sheriffs for Chancery and Recoupling Tolls.

Civit' Bristol'	To the County Secretary	6.	50	ds.
Civit' Canterbury'		03	50	08
Civit' Ebor'		02	13	04
Civit' Coventry'	On moving down a District received by D	03	—	
Civit' Exon'	for receipt of White of Briti... by	14	—	
Civit' Glouc'	part of the Recep... of Offic...	03	13	04
Civit' Lincoln	On receiving Recpt	03	13	04
Civit' Litchf'	On receiving Recpt	03	—	08
Civit' Norwic'		03	50	08
Civit' Wigorn'		02	—	
Vil' Kingston super Hull	To the Parishes	03	50	08
Vil' Nott'		02	—	
Nov' Castrum		02	13	04
Vil' Pool	On going the Second of Decem Mz 15	01	13	04
Vil' South'ton	On going the County of Jas'	—	—	

Memorandum, That the Audit of the Committee of Estates of Cheshire
and Lancaster is to be taken before the Clerk of the Pipe, and
before the respective Auditor of those Counties; but their Books
being with every Year, and Certificates made (of what they take
in Charge) to the Auditor, the following Fees are to be taken by
the Clerk of the Pipe and the Town Clerk for these Counties, viz.

1. The Secretary of a Peasant or Peasants' Association
2. The Secretary of a Peasant or Peasants' Association
3. The Secretary of a Peasant or Peasants' Association
4. The Secretary of a Peasant or Peasants' Association
5. The Secretary of a Peasant or Peasants' Association
6. The Secretary of a Peasant or Peasants' Association
7. The Secretary of a Peasant or Peasants' Association
8. The Secretary of a Peasant or Peasants' Association
9. The Secretary of a Peasant or Peasants' Association
10. The Secretary of a Peasant or Peasants' Association
11. The Secretary of a Peasant or Peasants' Association
12. The Secretary of a Peasant or Peasants' Association
13. The Secretary of a Peasant or Peasants' Association
14. The Secretary of a Peasant or Peasants' Association
15. The Secretary of a Peasant or Peasants' Association
16. The Secretary of a Peasant or Peasants' Association
17. The Secretary of a Peasant or Peasants' Association
18. The Secretary of a Peasant or Peasants' Association
19. The Secretary of a Peasant or Peasants' Association
20. The Secretary of a Peasant or Peasants' Association

— — — Fees to be paid to the first Secondary.

— — — — —

FOR allowing the Sheriff's Tallies of Pro-
fer in each County, — — — — —
In each City and Town, — — — — —
Making up the Sheriff's Sum containing his
whole Charge in York, — — — — —
Lond' Midd'sex, — — — — —
For the rest of the Counties, each
Allowing a Talley de remanente Compt' or any o-
ther Talley de Sol' in his Account, when } — — — — —
such happen, — — — — —
For charging a Post Scrow, which rarely hap- } — — — — —
pens, — — — — —

To the second Secondary.

FOR drawing down a Debt received by Dr-
F ring, or levied by Writ of *Habeas Corpus*, — — — — —
from either of the Remembrancer's Office } — — — — —
uppon the Scrow Back, — — — — —
is an extraordinary Length, — — — — —

To the Portmug.

FOR grossing the Scrow of green Wax of
the Sheriff of the County of York, — — — — —
Lond' Midd'sex, — — — — —
The rest of the Counties of England, each } — — — — —
For the accounting Towns and Cities, each } — — — — —
Custal and Accidental Fees to the Surveyors in their
respective Alignments, viz. — — — — —

FOR a Compt of a Seizure or Debt in order } — — — — —
to be ruled or discharged, — — — — —
For settling of a Seizure or Debt upon a She- } — — — — —
riff's Account, by Petition or Judgment of } — — — — —
Court, when it happens, — — — — —

Filing the Certificates of Fiduciary Goods, and
charging the Debts therein contained, each

To be paid to the Master of the Office of the Attorney of the
For the Allowance of Justices Wages

York — 5 bus passengers per head
London & Middlesex — 62 bus passengers per head
Lincoln — 62 bus passengers per head
The rest of the Counties of England, each — 12 bus passengers per head

The rest of the Counties of England, each — 13 04

For Sheriffs' Allowances,

E Bor' Lond' Midd'sex
The rest of the Counties, each
Record of Surplusage for the first five Pound
For every other five Pound

To the writing Clerk for the Business of the whole Year.

Cant' Hunt'	05	—
Coventry	06	—
Devon'	06	—
Ebor'	06	—
Kant'	07	—
Lincol'	06	10
Lond' Midd'sex	06	—
Monmouth	03	—
Rutland	03	—
Somers'	10	do
Suffex	07	—
Westmorl'	03	—
The rest of the Counties, each	02	—
Civit' Bristol'	05	—
Civit' Ebor'	04	M
Civit' Norwic'	01	—
Kingston super Hull	01	—
Novum Castrum	01	—
Vil' Pool	06	08
The rest of the Cities, each	13	12W

Of the Office of the Pipe

Com' Pal' Cestur l. s. d.
Com' Pal' Lanc — 12 04
 Com' Pal' Chester, Lancashire, each County, £12 04
 Com' Pal' Lancashire, each County, £12 04

To be paid to the Bagman of the Office at the Apposal of
 the Sheriff, and to the Sheriff, each £12 04

l. s. d.
 Of England, in each County, two Shillings and 1 — 10
 six Pence, and the casting out, — 10
 And for each City and accounting Town, — 92 06

do — do, assigned to settling the County to the Sheriff
 Fees to be paid to the Comptroller of the Pipe.

l. s. d.
 For Apposal of Lond', Midd'sex and York, each 02 —
 For Apposal of Surrey, Susse, Rutland and — 10
 Northumberland, each — 10
 For Apposal of every other County, — 07 04
 For casting out of Lond', Midd'sex and York, each 02
 For casting out of Surrey, Susse and Rutland, each — 07 04
 For casting out of every other County, — 01 10 —
 For Return of Summons for Lond', Midd'sex } — 05
 For Return of every other Summons, — 02 06
 For Petitions, which seldom happen, — 02 06

The Fees to be taken by the three Clerks of the Comptroller
 of the Pipe in passing Sheriff's Accounts

	Apposals.	Casting out.
Bedd'	10	10
Heref'	10	10
North'ron	—	10
Surr'	20	20
Rutld'	20	20
Lond', Midd'sex	—	10
Camb'	10	10
Heref'	10	10
Leic' sh'	—	10
Nort'	10	10
Notrd'	—	10
Suff'	—	10
War'	—	10
Suff'	—	10
	10 15	10 15
	—	—
		Derb'

Appofals. Casting out.

For Return of every Summoner fifteen Shillings and six Pence, except *London*, *Middlesex*, fifteen Shillings, *York*, one Penny and five Shillings, and *Cornwall*, *Breteuil*, *Dorset*, *Lincoln*, *Somerset*, *Suffolk*, *Sussex*, *Wales* and *Salop*, each eighteen Shillings and six Pence. For the Petition of Allowance three Shillings and six Pence, except in *London*, *Middlesex* and *York*, thirteen Shillings and four Pence; and in *Cornwall*, *Dorset* and *Suffolk*, five Shillings and eight Pence each; for every other Petition one Shilling, and for the Justices Wages in *London* and *Middlesex* ten Shillings.

Fees to be paid by Sheriffs in the King's Exchequer's Office, upon giving Security when the sheriff takes his Office.

TH E Stamp-Duty of the Recoincidence, ^{10/-}
The Caption Fee before the Baron, ^{1/-}
The King's Remembrancer's Fee for the same, ^{1/-}, abrogated
for the Counties of York and Norfolk for ^{10/-}
each of them. ^{5/-}

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Of the Duke of Bedford, and
the gaifis

	l.	s.	d.
To him for every other County of England, except Lancaster and Durham, and the several Counties of Wales, which give no Security in the Exchequer,	—	10	00
To the Attorney for making the Recognizance, attending the Baron, entering and inrolling the Recognizance, making the Plea, and Duty for the same, and filing the Warrant of Attorney,	—	18	00
Upon the Apposal of every Sheriff upon the Process returnable in Easter Term to the Deputy-Remembrancer,	—	05	00
To the Attorney that receives and files the Writs, and attends the Apposals of the Sheriffs,	—	04	04
The like upon the Process returnable in Michaelmas Term,	—	09	04
For making the Certificate when the Sheriff enters upon his Account of what Seizures are by him made upon the Process returned in that Office during his Year,	—	04	04
20 81 40 180 81 40			

Treasurer's Remembrancer's Office in the Court of Exchequer.

<i>Fees taken of Sheriffs in the said Office on passing their Accoupts by the Remembrancer.</i>			
Upon a Sheriff's Warrant for respiting a Sheriff's Apposal, or for a Day over to finish his Accounts,	—	04	00
Upon the View of a Sheriff's Accounts in Easter and Michaelmas Term,	—	06	08
Upon the Commission to swear a Sheriff in the Country to account,	—	06	08
Upon examining and ruling a Sheriff's Petition of Allowance for the two Days granted ex gratia Curia for finishing his Account, and for filing his Affidavit of Felons Goods,	—	12	00
Upon examining and ruling any other Petition in a Sheriff's Account, when any such happens,	—	03	04
Upon a Record of Surplusage for the first five Pound,	—	06	08
For every other five Pound,	—	03	04
			For

For filing any <i>Constat</i> , Warrant, or other Ex-	—	or
bit, —	5	10
do —	10	15
do —	10	15
For making the View of a Sheriff's Ac-	—	or
count in Easter and Michaelmas Term, five	{	10
Shillings each Term, viz.		
For giving a Sheriff Notice timely, during		
his Year of Office, of any Information or		
Plaint against him, according to the Statute		
in that Case made and provided; and for at	10	15
tending his Apposals before the Barons, and	10	15
in Easter and Michaelmas Terms, twenty Shillings	10	15
each Term, viz.		
For drawing any Warrant to be signed by the	3	6
Chancellor, or a Baron,		
For attending a Baron for his Hand thereto,	3	6
For directing a Sheriff in his Business during	10	15
the three Terms he is upon his Account, ten	10	15
Shillings each Term, viz.		
For making the Commission to swear a Sheriff		
in the County to account pursuant to a	—	10
Warrant from a Baron for that Purpose,		
For the Oath theretunto annexed,	6	10
For a High-Sheriff's Warrant to be sworn to ac-		
count, (when he comes in Person) and for	10	15
attending his being sworn,		
For an Under-Sheriff's Warrant,	3	6
For attending and putting in a Sheriff's Bill of		
Profers at the Receipt of Exchequer in Cr	10	15
cli' Pasche & C ^o Sc ^r Mich' when his Year is	10	15
ended, at his swearing to account,		
For entering the two Days ex gratia Curia,	6	10
For drawing a Sheriff's Oath touching Felons	6	10
Goods,		
For a Copy thereof to transmit to the Pipe, a guill	3	6
For a Certificate of the Execution of a Process,	6	10
For a Search in order to make such Certificate,	3	6
For drawing any Petition in Parchment, and in-	6	10
rolling it,		
For inrolling a Sheriff's Bill of Allowance,	13	15
For inrolling any Schedule in <i>Onere Constat</i> , or	6	10
Warrant by the Roll,		
For a Record or Surplusage for the first five	6	10
Pounds,		

Of the Duties of Sheriffs.

For every other five Pounds,	— 03 04
For copying any Seizure made by a Sheriff, per Sheet,	— 03 04
For examining and signing the same,	— 10 —
For a Writ of Assistance and Seal,	— 06 —
For attending at Westminster to dismiss a Sheriff from the Court, fulfilling his Account,	— 06 —

By the Fitterer.

FOR serving a High Sheriff's Commission, or Warrant, ad Cognitio, on the Scrutineers of Accountants,	— 05 —
For an Under-Sheriff's Warrant, and any Warrant ad regisitred Preceas,	— 05 —
For the Sheriff's Tallies of Profers,	— 03 —
For entering a Sheriff's Writs on the Bills,	— 02 —
And when he comes per Dux and America, —	—
— ments are set by the Court, then for each Amercian one Shilling, being usually the —	— 06 —
— during his Year, viz. end of November, —	—
When any Plea, Composition, Order, or the like, happens	—
— during a Sheriff's Account, through his Default, or Contempt, he pays the same Fees that are paid by other Suitors,	—

There have been some small Fees Time and of Mind paid to the Under-Clerks, viz.

FOR writing a Warrant or Affidavit,	— 01 —
On Return of Process twice a Year, five	— 01 —
Shillings, viz.	—

For ingrossing a Commission, and Oath annexed, — 01 —

As likewise to the Portmug, viz.

For carrying any Writ to be sealed, — 06 —

For a Commission,

A Sheriff pays him at each of his Appraisals — 04 —

two Shillings, viz.

And for Postage of all his Business, during the — 05 —

Time he is upon his Account,

A per-

A Particular of such Fees as are to be paid by Sheriffs in the Office of Remembrancer of the Exchequer, and Tents in his Majesty's Exchequer.

FOR attending the Sheriffs Apposals at Westminster upon their returning of Writs, issued for Arrears of First-Fruits, and for filing the same in Easter Term, each

The like for Michaelmas Term,

Fees to be received by the Foreign Apposer, his Deputy or Chief Clerk, of all Sheriffs of Counties, Cities, and Towns, at their Apposal upon the Summons of the Green-Wax, and for making out the Justices Wages when craved by the Sheriff.

Counties.	Apposal.	Justices Wages.
Bedsford	03 05 —	01 12 06
Berks	03 05 —	01 12 06
Bucks	03 05 —	01 12 06
Cambr' Hunt'	03 05 —	01 12 06
Cornwall	06 05 —	01 12 06
Cumberland	03 05 —	01 12 06
Derby	03 18 —	01 12 06
Devon	07 05 —	01 12 06
Dorset	04 05 —	01 12 06
Esex	06 05 —	01 12 06
Gloucester	04 05 —	01 12 06
Hereford	03 05 —	01 12 06
Hertford	03 08 04	01 12 06
Kent	06 05 —	01 12 06
Leic'	03 05 —	01 12 06
Lincoln	06 05 —	01 12 06
Long' and Middlex	07 10 —	05 10 —
Monmouth	03 05 —	01 12 06
Norfolk	06 05 —	03 05 —
North'ton	05 05 —	01 12 06
Nottingham	03 18 04	01 12 06
Northumberland	03 05 —	01 12 06
Oxford	03 05 —	01 12 06
Rutland	01 05 —	— — —
Salop	04 05 —	01 12 06
		Somerset

Of the Office of Sheriff.

Counties.	Apposal.	Justices Wages.
Somerset	06 05	01 12 06
South' ton	03 18 04	01 12 06
Stafford.	03 05	01 12 06
Suffolk	07 05	03 05 —
Surrey	03 05	01 12 06
Sussex	03 05	01 12 06
Warwick	03 05	01 12 06
Westmorland	15 05	—
Worcester	09 05	06 05
Wiltshire	05 05	01 12 06
York	09 05 04	03 05 —

Cities.

Cities.	Apposals.
Bristol	06
Coventry	06
Canterbury	06
Exeter	01 12 06
Gloucest.	— 17 06
Litchfield	— 15 10
Lincoln	— 15 10
Norwich	01 12 06
Worcester	01 17 06
York	17 06
Towns.	—
Kingston super Hull	15 10
Nottingham	17 06
Newcastle upon Tyne	17 06
Pool	14 02
South' ton	17 06

Fees to be taken by the Clerk of the Extracts in his Majesty's Court of Exchequer, and by the Sworn Clerk in that Office, of all Sheriffs accomptable in the Exchequer upon their Apposals on the Summons of the Green Wax.

To the Clerk of the Extracts for Northum-
berland and Westmorland, each — 10 —
Of London and Middlesex, 01 02 —
Of the County of Rutland, — 13 04
Of

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and passing their Patents, &c.

	l.	s.	d.
Of every other County, each	01	—	—
Of the City of Exon,	—	10	—
Of every other City and Town, each	—	06	08

To the sworn Clerk for writing out the Summons twice every Year, and attending the Apposals.

	l.	s.	d.
Of the County of Rulands,	—	09	03
Of Ebor'	01	16	08
Of Surrey,	01	13	04
Of Westmorland,	—	16	08
Of the Counties of Heref', Hertf', Oxon, Suff'. and }	01	—	—
South'ton, each	3	—	—
Of every other County,	01	06	03
Of the Cities of Bristol, Litchfield, and Town } of Pool, each	—	05	10
Of the City of Exon,	—	10	—
Of every orher City and Town, each	—	08	04
The Fee due to the Chancellor of the Exchequer, his Secretary, and Clerk, for passing a Sheriff's Allowance, to be	—	15	40

Fees to be taken by the Cursitor-Baron, and his Clerk, of the several Sheriffs of England.

	l.	s.	d.
TO the Baron for swearing to their Ac- count, and signing their Warrant,	3	16	08
To his Clerk,	—	04	—
To the Baron at their Apposals;	01	—	—
To his Clerk,	—	07	06
To the Baron at their calling out of Court,	01	—	—
To his Clerk	—	07	06

Sheriffs of London and Middlesex, and Sheriffs of the County of York, pay double Fees, and the Sheriffs of Suffex, Surrey, Rutland and Westmorland, pay half Fees.

Fees

Of the Office of Sheriffs,

Fees Certain and Casual to be paid by the Sheriff to the Marshals of his Majesty's Court of Exchequer, granted to them by Patent under the Great Seal without Salary.

Easter-Term.

ALL Sheriffs of the Counties of England come then to be apposed on their Writs and Process before the Barons, and pay the said Marshals (except Rutland and Yorkshire) half Day half that Fee, viz. £ 11 11 00 Yorkshire double.

Michaelmas-Term.

The same Sheriff are apposed again on the same Writs and Process, and to pay their Fees as above.

Easter-Term.

Sheriffs of the Cities and Towns, and Deputies of the Cinque-Ports, each of them to pay severally upon their Appoisals then, as followeth, viz.

Incoln, Canterbury, Pool, Gloucester, Wigton, Nottingham, Coventry, Southampton, Litchfield, and Deputy of the Cinque-Ports, York, Norwich, Exon, Newcastle, Hull, Bristol City,

Michaelmas-Term.

THE Sheriffs of Cities and Towns above, apposed then, are to pay the same Fees as paid in Easter Term, and when sworn to account, are to pay more, Balliffs of Liberties sworn to account, are to pay each Bristol Escheator is to pay,

Michaelmas

and putting their Patents, &c.

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Michaelmas-Term.

Sheriffs of Counties prefixed that Term to be sworn, and to take their Accounts in Charge before the Cursitor-Baron, on the Summons of the Pipe, and before the Foreign Apposer upon the Green Wax, viz. 16 07
Essex, Hertford, Kent, Cambridge, Huntington,
Northampton, Lincoln, Stafford, Wigorn, Wills,
Cornub, Salop, Berks and Bucks, are to pay each,

Rutland is to pay half that Fee, — 14 07
London and Middlesex is to pay his Fees for a whole Year, 09 12 —

London Gauger then sworn in Court is to pay, — 08 08

Hillary-Term.

Sheriffs of Counties sworn and apposed before the Cursitor-Baron and Foreign Apposer, as in Michaelmas Term, viz. Surrey, Sussex, Oxon, Berks, Norfolk, Suffolk, Mercⁱ, 06 09 02
ford, Dorset, Monmouth, Somerset, Derby, Nottingham, Devon, Gloucester, Warwick, 06 18 04
hampton, and Leicester, to pay each
York pays double

02 06 08
Essex-Term.

Sheriffs of Cumberland and Northumberland, then prefixed and apposed on the Summons of the Pipe and Green Wax, before the Cursitor-Baron and Foreign Apposer, to pay each,

Westmorland then to pay his Fees for the whole Year, 02 06 08

Lancashire for the whole Year, 03 10 —

Cheshire for the whole Year, 03 06 08

All Sheriffs discharged by Proclamation in the

Court, except York, — 25 10

York is to pay 01 11 08

Of the Office of Sheriffs,

Casual Fees.

Sheriffs attached by Order of Court, or l. s. d.
Warrant } 30 13 04
Sheriffs in Custody per Diem until discharged, — 06 08

If the Marshal rides into the Country, six Pence per Mile
forwards, and the same backwards, towards his Charges
from the Sheriff on whose Account he goes.

Every Sheriff that hath further Time given l. s. d.
him by Order of Court, or Warrant, to pass — 06 08
his Account, or to be apposed, to pay l. s. d.
**The Fees to be taken by the Four Ushers of his Maje-
sty's Court of Exchequer.**

Of every High Sheriff when he enters on l. s. d.
Recognizance in the Exchequer, l. s. d.
Of every Sheriff of a County sworn to answer l. s. d.
upon his two Apposals on the King's Remem- l. s. d.
brancer, Treasurer's Remembrancer, and l. s. d.
First-Fruits Proces, for each the said Appo- l. s. d.
sals,
Of every Sheriff of a City, &c. on each of his l. s. d.
and two Apposals, l. s. d.
Of every Sheriff of a County sworn to his Ac- l. s. d.
count in Court, or elsewhere, and on his Ap- l. s. d.
posal on the Pipe-Proces before the Cursitor l. s. d.
Baron,
Of every Sheriff of a City, &c. on the like l. s. d.
Apposal, l. s. d.
Of every Sheriff of a County at his coming out l. s. d.
of Court, or finishing his Account, l. s. d.
London, Middlesex and Yorksire to pay double.

Fees

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20 11 20

*Fees to be taken by the Court-Keeper of his Majesty's
Court of Exchequer.*

O	F every High-Sheriff when he enters on Recognizance in the Exchequer,	1	2	d
Of every Sheriff of a County-Town to answer, upon his two Apposals on the King's Re- membrancer, Treasurer's Remembrancer, and First-Fruits Process, for each of the said		02	—	
Apposals,				
Of every Sheriff of a City, &c. on each of the said two Apposals,		01	—	
Of every Sheriff of a County sworn to his Account in Court, or elsewhere, and on his Apposal upon the Pipe-Process, before the Cursitor-Baron,		03	—	
Of every Sheriff of a City, &c. on the like Apposal,		01	—	
Of every Sheriff of a County upon his Apposal on the Summons of Green Wax before the Foreign Apposer, and Clerk of the Estreats,		02	—	
If apposed out of Term,		02	06	
Of every Sheriff of a City, &c. on the like Apposal,		01	—	
Of every Sheriff of a County on his casting out of Court, or finishing his Accounts,		02	—	
London, Middlesex and York to pay double.				

*Fees to be received by the Messenger of the said
Court, viz.*

O	F every Sheriff of a County sworn to answer upon his two Apposals on the King's Remembrancer, Treasurer's Remem- brancer, and First-Fruits Process, for each	1	2	d
of the said Apposals,		06	08	
Of every Sheriff of a City for each of the said two Apposals,		03	04	
London, Middlesex and York to pay double.				

Fees to be received by the Tipstaff in the said Court.

	l.	s.	d.
Of every Sheriff when he enters on Rec- ognizance in the Exchequer,		02	—
Of every Sheriff of a County sworn to answer upon his two Apposals upon the King's Re- membrancer, Treasurer's Remembrancer, and First-Fruits Procel, for each of the said Apposals,		02	—
Of every Sheriff of a City, &c. sworn to answer the like Apposals,		02	—
Of every Sheriff of a County sworn to his Ac- count in Court, or elsewhere, and on his Apposal on the Pipe-Procel before the Curlitor-Baron,		03	—
Of every Sheriff of a City, &c. on his Apposal on the Pipe-Procel before the Curlitor- Baron,		02	—
Of every Sheriff of a County at his casting out of Court, and finishing his Account, <i>London, Middlesex and York to pay double.</i>		02	—

Fees and Allowances to be paid to the Auditors of the Exchequer, for Making up and Passing the under-mentioned Sheriff's Accoups, viz.

	l.	s.	d.
For inrolling a Sheriff's Patent, filing the several Certificates, drawing and in- grossing the Account, and for the Quietus of the Sheriff of Cheshire and Lancashire, the Fees for each County to be,		20	—
For the County-Palatine of Durham, according to ancient Custom,	09	06	08
For casting out of Sheriffs in open Court, ex- cept London and Middlesex, York and Lin- coln, each County		10	—
For London, Middlesex, York and Lincoln, each County,	01		—

Fees

Fees to be paid by the Sheriffs of Wales to the Auditor of Wales and Cheshire, for the several Sheriffs of Wales.

F OR every old Seizure charged in the Sheriff's Account,	L. s. d.
	01 —
For every new Seizure charged in the Sheriff's Account,	02 —
For inrolling a Sheriff's Patent, filing the several Certificates, drawing and ingrossing the Account, and for the Quirens of each County,	38 18 0d

The Fees due to the Receiver of North and South Wales.

FOR every Sheriff upon passing his Accounts at the Audit for signing his Accts, and entering in the Revenue-Book,

For the Sheriff of Cheshire.

FOR inrolling the Sheriff's Patent, filing the several Certificates, drawing and ingrossing the Account, and for the Quirens of each County,

Anno Tertio Georgii Regis,
Cap. 16.

An ACT for the better enabling Sheriffs to sue out their Patents, and pass their Accounts.

Whereas it is not reasonable that the Sheriffs of this Kingdom, who are obliged to take upon them that troublesome and expensive Office for the Service of their Country, should pay those large Fees that are demanded of them, and of Right belong to the Officers and Clerks of the Chancery, Exchequer, and Pipe, for passing their Patents and Accounts, and obtaining their *Quittances*: And whereas it would be unreasonable to take their due Fees from the Officers and Clerks, or to expect that they should do the Duty of their respective Offices without a reasonable Reward for their Labour: And whereas the whole Expence of passing the Patents and the Accounts of the several Sheriffs herein after mentioned, amounts to four thousand Pounds: Therefore to the End that the Sheriffs may be eased, and Justice done to the said Officers and Clerks, be it enacted by the King's most excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and of the Commons in this present Parliament assembled, and by the Authority of the same, That from and after the twenty-ninth Day of September, in the Year of our Lord, one thousand seven hundred and seventeen, the yearly Sum of four thousand Pounds shall be set apart at the Receipt of the Exchequer out of such Fund as by any Act of this Session of Parliament shall be charged with the said yearly Sum, and in such Manner as shall be thereby appointed, for the Uses and Purposes hereafter mentioned.

And be it further enacted by the Authority aforesaid, That there shall be yearly, and every Year, paid out of the Monies which shall from Time to Time be so set apart upon the first Day of Michaelmas Term, to the several Sheriffs for the Time being, of the several Counties herein after mentioned, the several

several and respective Sums herein after expressed, to enable them respectively to bear the Expences of the respective Letters Patent for their Offices, and to pass their respective Accounts, and to obtain respective *Quietus's*; the said yearly Sums to be received without any Account or Imprest whatsoever to be set upon them, or any of them, and without paying any Fees or Charges for the same, or any Part thereof; that is to say,

TO the respective Sheriffs which shall be appointed for the County of *Bedford*, ninety-three Pounds and six Shillings.

For the County of *Berks*, ninety-six Pounds.

For the County of *Bucks*, ninety-six Pounds.

For the Counties of *Cambridge* and *Huntingdon*, ninety-five Pounds, and ten Shillings.

For the County of *Cheshire*, sixty-two Pounds, and five Shillings.

For the County of *Cornwall*, one hundred and two Pounds, and sixteen Shillings.

For the County of *Cumberland*, ninety Pounds and two Shillings.

For the County of *Derby*, ninety-three Pounds, and nineteen Shillings.

For the County of *Devon*, one hundred and six Pounds, nine Shillings.

For the County of *Dorset*, one hundred and one Pounds, six Shillings.

For the County of *Essex*, one hundred and eight Pounds, ten Shillings.

For the County of *Gloucester*, ninety-eight Pounds, and ten Shillings,

For the County of *Hereford*, ninety-four Pounds, and six Shillings.

For the County of *Hertford*, ninety-three Pounds.

For the County of *Kent*, one hundred and eight Pounds, ten Shillings.

For the County of *Lancaster*, sixty-seven Pounds, and seven Shillings.

For the County of *Leicester*, ninety-four Pounds, and six Shillings.

For the County of *Lincoln*, one hundred and one Pounds, three Shillings.

For the County of *Middlesex*, one hundred and nineteen Pounds, three Shillings.

For the County of *Monmouth*, eighty-nine Pounds, and three Shillings.

For the County of *Norfolk*, one hundred and one Pounds, fifteen Shillings,

For

Of the Office of Sheriffs, &c.

- For the County of *Northampton*, ninety-six Pounds.
 For the County of *Northumberland*, ninety one Pounds.
 For the County of *Nottingham*, ninety-five Pounds, and thirteen Shillings.
 For the County of *Oxon*, ninety-seven Pounds, and seven Shillings.
 For the County of *Rutland*, sixty-nine Pounds, and eleven Shillings.
 For the County of *Salop*, ninety-eight Pounds, and three Shillings.
 For the County of *Somerset*, one hundred and twelve Pounds, nineteen Shillings.
 For the County of *Southampton*, one hundred and one Pounds, three Shillings.
 For the County of *Stafford*, ninety-five Pounds, and ten Shillings.
 For the County of *Suffolk*, one hundred and two Pounds, twelve Shillings.
 For the County of *Surrey*, ninety Pounds and two Shillings.
 For the County of *Sussex*, ninety Pounds, and five Shillings.
 For the County of *Warwick*, ninety-three Pounds, and ten Shillings.
 For the County of *Wiltz*, one hundred and four Pounds, ten Shillings.
 For the County of *Worcester*, ninety-eight Pounds, and three Shillings.
 For the County of *York*, one hundred and fifty Pounds.
 For the County of *Anglesea*, thirty Pounds.
 For the County of *Brecon*, thirty Pounds.
 For the County of *Cardigan*, thirty Pounds.
 For the County of *Caermarthen*, thirty Pounds.
 For the County of *Carnarvon*, thirty Pounds.
 For the County of *Denbigh*, thirty Pounds.
 For the County of *Flint*, thirty Pounds.
 For the County of *Glamorgan*, thirty Pounds.
 For the County of *Merioneth*, thirty Pounds.
 For the County of *Mongomery*, thirty Pounds.
 For the County of *Pembroke*, thirty Pounds.
 For the County of *Radnor*, thirty Pounds.
 And to the Sheriff of *Westmorland*, for the Time being, forty Pounds, and six Shillings.

An

An Indenture by a High Sheriff, deputing one to be his Under-Sheriff.

THIS Indenture made, &c. between A. B. of R. in the County of York, Esq; Sheriff of the said County, of the one Part, and C. D. of W. in the said County, Gentleman, of the other Part, Witnesseth, That the said A. B. of assured Hope, Confidence and Trust that he hath, that the said C. D. will honestly, uprightly, and sufficiently discharge the Office and Duty of Under-Sheriff, as well to our Sovereign Lord the King, as all the People of the Kingdom of England, and therein discharge him the said Sheriff; and for the Consideration hereafter mentioned, hath been pleased and contented to assign, depute, ordain, constitute and make the said C. D. his Under-Sheriff of the said County of York, authorizing hereby the said C. D. according to the Covenants and Agreements by these Presents contained, to execute, perform, and do all that which to the Duty and Office of Under-Sheriff of the said County of Y. shall appertain, or to the Sheriff of the said County, without the personal Presence of the said Sheriff may be executed and done, and also to receive and take to his own Use, all Manner of Duties and lawful Fees, Commodities, Profits and Advantages to the same Office belonging, or in any wise lawfully appertaining, during such Time as the said A. B. shall continue Sheriff of the said County: In Consideration whereof the said C. D. for himself, his Heirs, Executors and Administrators, doth promise, covenant and grant, to and with the said A. B. his Executors, Administrators and Assigns, and every of them, by these Presents; That he the said C. D. shall and will during such Time as the said A. B. shall continue, remain, and be Sheriff of the said County of Y. honestly, truly and sufficiently execute and do the Office and Duty of an Under-Sheriff in the said County of Y. and shall and will well and sufficiently do and execute for and in the Name of the said Sheriff, all and every Thing and Things concerning the Office of the said Sheriff of the said County of Y. which without the personal Presence of the said High Sheriff may lawfully be done and executed, and thereof shall discharge the said High Sheriff, his Heirs, Executors, and Administrators.

And furthermore, the said C. D. for him, his Heirs, Executors and Administrators, and every of them, doth covenant, promise, and grant to and with the said A. B. his Heirs, Executors and Administrators, and every of them by these Presents,

A Coven-
tant by
the Under-
Sheriff how-
nestly to
execute the
Office, &c.

And that neither he nor his Servant, &c. will do any Thing contrary to Law in Prejudice of the Sheriff, &c.

Covenant by the Under-Sheriff to appoint sufficient Deputies or Attorneys in all Courts, and Deputies in all Parts of the County.

That he is to give Notice to the High-Sheriff of all Things to be done by him, in his proper Person, and thereto will be assistant.

Covenant to receive all Proceses, &c. to collect all Fines, Issues, Americaments, &c. and to pay the same, &c. and to aequit and discharge the Sheriff.

sents, That neither the said C. D. his Servant, Deputy, Assignee, Clerk or Bailiff, by him to be assigned, shall or will by Colour of his said Office, Députation or Assignment, extort, levy or receive any manner of Thing or Things, which by the Laws, Customs, or Statutes of the Kingdom, are or shall be prohibited, or not allowed, whereby the said Sheriff, his Heirs, Executors or Administrators, or any of them, may in any wise be either in their Persons, Goods or Lands, defamed, impeached, charged, impaired, molested or troubled.

And further, the said C. D. for himself, his Heirs, Executors and Administrators, and every of them, doth covenant, promise and grant to and with the said A. B. his Heirs, Executors and Administrators, and every of them, by these Presents, That he the said C. D. shall and will assign and appoint sufficient Deputies and Attorneys in all Courts accustomed, as well to receive Writs, Warrants, Precepts and Commands to the said Sheriff to be directed, and to make Proceses thereof, and to do all Thing and Things for the executing, serving, and sufficient returning thereof: And also shall make and appoint a sufficient Number of Deputies in all Parts of the said County of Y. according to the Laws and Statutes of this Kingdom.

And he the said C. D. shall and will from Time to Time give reasonable Notice and Warning unto the said A. B. of all such Things as shall be requisite and necessary for the said A. B. Sheriff of the said County, or by reason of his said Office in his own Person to do or execute, and therein at all Times in his own Person, or by his sufficient Deputy, shall be aiding and assisting as well for the doing and executing thereof, and the returning thereof: As also shall bear and pay all such Charges thereof, as to the Sheriff by reason of the said Office should appertain, except Man's Meat, and Horse-meat.

And also the said C. D. for himself, his Heirs, Executors and Administrators, and every of them, doth covenant, promise and grant to and with the said A. B. his Heirs, Executors and Administrators, and every of them, by these Presents, That the said C. D. his Heirs, Executors, Administrators or Assigns, shall and will well and truly from Time to Time receive all such Extracts and Proceses whatsoever, wherewith the said A. B. as Sheriff of the said County of Y. is or shall be chargeable to receive, and that the said C. D. his Heirs, Executors, Administrators and Assigns, shall and will well and truly collect, levy, and gather all Fines, Issues and Americaments, Seizures, Fee-Farms, Rents, Profits, Certainties, Pipe-silver, Chequer-silver, and all manner of Debts, Duties and Demands whatsoever, wherewith the said A. B. as Sheriff of the said County of Y. his Heirs, Executors and Administrators, their or any of their Goods, Chattels or Lands,

may in any wise be charged, or chargeable, and the same to pay to his Majesty's Use at such Times as the said A. B. is charged or chargeable to pay the same, and thereof, and of every Part and Parcel thereof, to acquit and discharge as well the said A. B. his Heirs, Executors and Administrators, and every of them, as also all and singular their and every of their Goods and Chattels, Manors, Messuages, Lands, Tenements and Hereditaments: And also that he the said C. D. his Heirs, Executors, Administrators or Assigns, shall and will from Time to Time, acquit and discharge, or otherwise sufficiently save and keep harmless the said A. B. his Heirs, Executors, Administrators and Assigns; and also all his and their Goods and Chattels, Lands, Tenements and Hereditaments whatsoever, of and from all manner of Execution, or of Executions of Prisoners whatsoever which to the Office of Sheriffwick shall appertain, Forfeitures, Fines, Amerciaments, Imprisonments, Pains, Penalties or Impositions whatsoever, to be charged, levied, or imposed upon the said A. B. Sheriff of the said County of Y. his Heirs, Executors, Administrators or Assigns, his or their, or either of their Goods or Chattels, Lands, Tenements or Hereditaments, by reason of any Misfeasance or Non-feasance, Omissions, Default, Delay, Contempt, or Cause whatsoever, of the said C. D. his Deputy or Deputies, Attorney or Attorneys, Clerk or Clerks, Bailiff or Bailiffs, or other Person whatsoever, not doing, or insufficient doing his or their Duty concerning the said Office of Sheriff or Under-Sheriff. And that neither he the said C. D. nor any of his Assigns, Deputies, Clerks or Attorneys, shall or will intermeddle with the Execution or returning of any Letters or Commandments from his Majesty or his Privy Council, without the Privity, Notice and Direction of the said A. B. then first had: And the said C. D. for himself, his Heirs, Executors, Administrators and Assigns, and every of them, doth further covenant and grant, to and with the said A. B. his Heirs, Executors and Administrators by these Presents, that he the said C. D. shall receive into his Custody all Prisoners to be committed to his Charge, and them safely and honestly shall keep, until they shall be brought and delivered into the Gaol or Prison of the said County, there to be safely kept by the Gaoler or Keeper of the same Gaol or Prison, until by due Course of Law they shall be delivered. And of such Prisoners as shall be convicted or attainted, shall make, or cause to be made, due Execution, according unto the Quality of the Judgment against every of them to be pronounced.

And that the same C. D. shall and will within six Days next before the beginning of every Term, which shall be during

certificate of all Executions, and of the Names and Summes to be levied, and what is done therein.

And to certify the same to be done by the said C. D. the

And that
he will ac-
quit, &c.
the Sheriff
from all
Executions
of Prison-
ers, &c.

And from
all Forfei-
tures, by
reason of
any Mis-
feasance,
or Non-
feasance,

&c. of
him, his
Deputy,
&c. And
that he
will not
intermed-
d'e with
the Execu-
tion of any
Letter, &c
from the
King or
his Privy
Council.

Covenant
safely to
keep the
Prisoners
until they
are deli-
vered to
the Gaol,
and to ex-
cute Pri-
soners ar-
aigned.

That he
will deli-
ver a Cer-

Precedent 3.

the Time of the said Sheriffwick, well and truly deliver and certifie unto the said A. B. a true Note or Certificate in Writing under his Hand of all such Writs of Execution whatsoever, as before the Term shall be come to his Hands, with the Name and Surname of the Party and Parties for whom the said Execution is to be done; and also the Name and Surname against whom the same is to be executed, and the Sum and Sums of Money thereby severally to be levied, and what is done thereina, upon every such Writ or Proces.

In Consideration of all which Premisses, the said A. B. is contented and pleased that the said C. D. shall or may in the Name of the said A. B. assign and set over any Bond to be taken in the Name of the said Sheriff, for Appearance or Discharge of Proces to any Person or Persons, to the Intent thereby to compel the Parties to appear, to save and keep harmless the said Sheriff and Under-Sheriff of any Fine or Americament thereby: And also that the said C. D. may commence or take his Action upon any such Bond, for the enforcing the said Parties therein bound to bring forth the Party or Parties, for whose Appearance they were become bound, thereby to save himself harmless of such Fines and Americaments as shall be imposed or laid upon the said Sheriff for not bringing forth the said Party or Parties, all which Suits being lawfully taken for the Causes aforesaid, the said A. B. doth covenant and promise to avow and jubilee, and that it shall be lawful to and for the said C. D. his Executors and Administrators, and also for the said Assigns, to retain to their own Use the said Sum or Sums to be recovered by reason of the said Bonds, towards their Charges and Expenses, by reason of the non Appearance of the said Parties; so always that they and every of them, shall stand to the Orders and Directions of the said A. B. his Executors or Administrators for the Overplus thereof (if any shall be) And the said C. D. for himself, his Heirs, Executors and Administrators, and every of them, doth covenant and promise to and with the said A. B. his Heirs, Executors and Administrators, to acquit and discharge, or else to save harmless the said A. B. &c. of and from all, and all Manner of Costs and Damages which may in any wise be awarded, adjudged, decreed or recovered against him or them by reason of any such Suit.

Finally, The said C. D. for himself, his Heirs, &c. and every of them, doth covenant, promise and grant, to and with the said A. B. his Heirs, &c. and every of them, by these Presents, that he the said C. D. his Executors, &c. shall and will on this Side the Feast-day of the Purification of our blessed Virgin Mary, which shall be in the Year, &c. well and truly discharge and pay unto the King's Majesty, his Heirs or Successors, all such Sum and Sums of Money, Duties and Demands, as shall be due unto his Majesty, his Heirs or Successors,

Covenant
by the
Under-
Sheriff to
pay all
dums due
to the
King, and
to procure
a Quietus
etc.

citors, wherewith the said A. B. shall be charged or chargeable as Sheriff; or by reason of the said Office of Sheriffwick of the said County of Y. and thereupon within three Months next ensuing, shall procure unto the said A. B. his Heirs, &c. a sufficient Discharge and *Quietus est*, in full Discharge of his said Office and Account.

Provided always, That if the said C. D. his Deputy or Deputies, Attorney or Attorneys, Clerk or Clerks, Deputy or Deputies, or any of them, at any Time during the said Office, shall commit, do, or suffer to be done, any Manner of A&t or Acts, Thing or Things whatsoever, belonging to the said Office of Sheriff of the said County of York, or by Colour of the said Office, by reason whereof the said A. B. his Executors, Administrators or Assigns, or his or their Goods or Chattels, Lands, Tenements and Hereditaments, or any of them, may in any wise be charged or chargeable, above the same Sum of, &c. That then, and from thenceforth it shall be lawful to and for the said A. B. to grant, assign, and depute the Execution of the said Office of Under-Sheriff, for the Residue of the said Time then to come, to any Person or Persons. And that then, and from thenceforth, it shall be lawful to and for such Assignee and Deputy, to have and take all the Fees and Commodities, Profits and Advantages, from thenceforth to the said Office belonging, or in any wise appertaining, this Indenture, or any Thing therein contained, or any other Matter or Cause concerning the Assignment or Deputation of the said Under-Sheriffwick, in any wise notwithstanding.

And the said A. B. for him, his Heirs, &c. doth covenant and grant to and with the said C. D. his Heirs, &c. by these Presents, That he the A. B. his Heirs, &c. shall or will deliver, or cause to be delivered to the said C. D. his Heirs, &c. to be cancelled, all such Bonds and Obligations, wherein any Person or Persons shall be, or stand bound for, or in the Behalf of the said C. D. to the said A. B. for or in Respect of the Execution of the said Office of the said Under-Sheriffwick, or for the saving harmless of the said A. B. concerning the said Office of High-Sheriff, within three Months next after the said C. D. his Heirs, &c. shall procure or deliver to the said A. B. his Heirs, &c. a *Quietus est* out of his Majesty's Court of Exchequer, for his Discharge of the said Office, and the Bond of the said C. D. to remain for the saving harmless of the said A. B. his Heirs, Executors and Administrators, of Americaments, and other Impositions touching the said Office.

Proviso,
that if the
Under-
Sheriff, or
his Deputy,
&c. shall
do or leave
undone
any Thing,
&c. then
it shall be
lawful for
the Sheriff
to grant
the Office
to another.

Covenant
by the She-
riff to de-
liver can-
celled to
the Under-
Sheriff all
the Secu-
rity given
by him for
the Execu-
tion, of his
Office,
within
three
Months
after he
shall have
procured a
Quietus est.

And

Precedents.

An Agree-
ment be-
tween the
Under-
Sheriff, and
one E. F.
and for
that Pur-
pose the
Sheriff
hath Secu-
rity. Ne-
vertheless,
for the
better
Security
the Sheriff
doth by
these Pre-
sents bind
the said
E. F. &c.

Covenant
by the She-
riff not to
charge the
said E. F.
Or. if he
may be
saved
harmless
by the
Under-
Sheriff.

And whereas by an Agreement made between the said C. D. and one E. F. Gentleman, whom the said A. B. hath appointed Under-Sheriff for the County of York, it is acknowledged and affirmed by the said E. F. before the Sealing of these Indentures, that the said E. F. his Executors, Administrators or Assigns, is to pass the whole Account of the said A. B. and to execute, levy, gather up, extend, bring in, and pay all such Seizures, Extents, Process, Chequer-silver, Duties and Demands, Charges, Sum or Sums of Money whatsoever, howsoever or wheresoever, as the said A. B. his Heirs, Executors or Administrators, shall be in any Court or Courts, Place or Places, any way charged or chargeable unto or withdrawal, as Sheriff of the said County of York, at and according to the Place and Places, Time and Times, limited in these Indentures, for the said C. D. to do and perform; and thereupon shall also accordingly within six Months next ensuing the Time within limited, procure unto the said A. B. his Heirs and Assigns, a sufficient Discharge, and *Quicuia eff* in full Discharge of the said Office and Account.

And the said A. B. hath to that End also Security of two thousand Pounds from the said C. D. and his Sureties, for the Performance of the like Covenant amongst other Covenants in the Indenture specified, which are made between the said A. B. and the said C. D. and yet notwithstanding the said A. B. for his better Security doth by these Presents bind and tie the said E. F. his Executors, Administrators or Assigns, to the doing and performing of the same. Also the said A. B. is well pleased and contented, and for himself, his Executors and Administrators, doth covenant, promise and grant to and with the said E. F. his Executors, Administrators, and every of them, that if the said A. B. his Heirs, Executors, Administrators and Assigns, shall or may be relieved, saved harmless or indemnified for and concerning the fore-cited Covenants and Agreements, by the said C. D. his Executors and Assigns, and his Sureties, that then be the said A. B. his Executors, Administrators or Assigns, shall or will not take any Benefit or Advantage of the said Covenants and Agreements against the said E. F. his Heirs, Executors, Administrators or Assigns, or any his Sureties, or any of them. In Witness whereof, &c.

Or thus:

THIS Indenture made, &c. in the Year, &c. between A. B. of R. in the County of Y. Esq; (now High-Sheriff of the said County) of the one Part, and C. D. of, &c. in the said County, Gent. of the other Part. Whereas our Sovereign Lord the King, by his Majesty's Letters Patent under the Great Seal of Great Britain, bearing Date the seventeenth Day of this Instant November, hath made, nominated, constituted, assigned, and appointed the said A. B. to be High-Sheriff of the said County of York, during his Pleasure.

Now this Indenture witnesseth, That the said A. B. for the good Opinion which he hath conceived of the said C. D. and of the Trust and Confidence which he reposeth in him, hath deputed, assigned, constituted and ordained, and by these Presents doth depute, assign, constitute and ordain him the said C. D. to be his Under-Sheriff, of, for, and in the said County of York, during all the Time that he the said A. B. shall be and remain Sheriff of the said County, by Force of the Letters Patent aforesaid; and doth hereby authorize the said C. D. to serve, exercise and execute the said Office of Under-Sheriff of the said County under him the said A. B. in his Name during all the Time aforesaid. And the said A. B. as far as in him lies, doth also by these Presents grant unto the said C. D. that it shall and may be lawful to and for the said C. D. by Force hereof to appear, answer and serve, and minister as Under-Sheriff of the said County of York, for and in the Name of the said A. B. as well in all Places of the said County of York, as in all and every the Court and Courts within the Kingdom of England, and before all and every the Justices of Oyer and Terminer, Justices of Assize and Gaol-Delivery, Justices of the Peace, Coroners and Escheators, and other Officers and Commissioners of this Kingdom, where the said A. B. by Virtue of the said Office of Sheriffwick for the said County of York shall be bound, or ought to appear, answer, serve or be attendant; and to break open, answer, return and execute for him the said A. B. in his Name all Processes, Writs, Precepts, Warrants, Mandates and Commandments to the Sheriff of the said County directed, or hereafter to be directed, out of any of the Courts aforesaid, or from any the Justices, Coroners or Escheators aforesaid; and to do, perform and execute for him the said A. B. and in his Name, all and every Thing and Things, which by him the said A. B. by Virtue of his Office of Sheriffwick of the said County of York, is to be performed, executed and done: Saving always, and excepting the said C. D. shall not by Virtue thereof be authorized to open, return, send or execute any

Covenant
that the
Under-
Sheriff
shall not
execute
any Writs
for Knights
for the
Parlia-
ment; nor
open, exe-
cute or an-
swer any
Letters of
his Majesty
or the
Council.

Writ or Writs for electing any Knights of the Shire, Bur-gesses of Parliament for the said County of York, or any Bo-rough within the said County; nor open, execute, or answer any the Letters of the King's Majesty, or the Council, to be directed unto the said Sheriff of the said County of York, without the special Warrant, Direction or Commandment of him the said A. B. for that Purpose.

And further, the said A. B. doth by these Presents grant unto the said C. D. for the executing of the said Office, all the Fees, Duties and Profits to him due, aris-ing and growing by the County-Courts to be kept within the said County of York, and all other Fees, Rewards, Duties Allowances and Profits incident to the Office of Sheriffwick, or thereunto belonging, for which the said A. B. is or shall be allowed by the Common Laws of this Nation, or Customs of the said County, either for the opening, returning or execu-ting of any Writ, Precept or Proces, Warrant or Command-ment whatsoever, or for other executing of the said Office, and which have not been accepted heretofore, the ordinary Fees of any other his Bailiffs or other Officers, to have and enjoy the said Duties, Fees, Rewards, Allowances and other Profits to his own Use, without an Account to be rendered to the said A. B. his Executors or Administrators for the same.

Covenant
that the
Under-
Sheriff
shall re-
ceive all
Fees to his
own Use.

And the said C. D. for and in Consideration of the Benevo-lence aforesaid, and for the free Gift and Grant of the said A. B. doth for himself, his Heirs, Executors, Administrators and Assigns, and every of them, covenant, promise, grant and agree, to and with the said A. B. his Heirs, Executors, Administrators and Assigns, by these Presents, That he the said C. D. shall and will at all Times from and after the Day of the Date of these Presents, duly, diligently, lawfully and carefully serve the said A. B. as his Deputy and Under-Sheriff, of, in and for the said County of York, without doing or com-mitting any kind of Extortion, or wilful misbehaving of him-self in the said Office; and shall and will duly and respectively execute the said Office of Sheriffwick, under the Name of the said A. B. in all Points, so far forth as these Presents, the Laws of the Land, or other Licence or Commandment of the said A. B. shall warrant or give Liberty; and shall and will in the Name of the said A. B. and as his Deputy in the said Office of Under-Sheriff of the said County of Y. be att-iwerable, attendant and minister in all Courts of our Sov-ereign Lord the King by and before the said Justices of Assize, Justices of the Peace, and all Commissioners, Escheators, Cor-roners, and other Officers of our Sovereign Lord the King before whom the said + A. B. shall be bound or required to minister, answer or be attendant, in respect of the said Office of Sheriffwick for the said County; and shall and will execute and make answier, true and sufficient Return of all such Pro-cesses,

[†]Covenant
to execute
and return
all Proces-
ses, &c.

cess, Writs, Precepts and Commandments directed from his said Majesty, or from every and any of the said Courts, Justices, Commissioners, Escheators, and other Officers aforesaid, as shall be delivered to, or come to the Hands of him the said C. D. his Deputy or Deputies, Assignee or Assignees, or shall and will discharge and save harmless the said A. B. his Heirs, Executors and Administrators *, and his, and their, and every of their Lands, Tenements, Goods and Chattels, of and from all Fines, Issues and Amerciaments, and other Penalties, Forfeitures, Pains corporal and pecuniary whatsoever, whereby or wherewithal the said A. B. his Heirs, Executors or Administrators, or his or their Lands, Tenements, Goods or Chattels, shall or may be charged or chargeable for his the said A. B. or the said C. D. not executing, not filing, neglecting, mis-executing, evil returning, not serving, mis-returning, or misfiling any of the said Writs, Process, Precepts, Warrants or Commandments aforesaid; or for the Absence, evil Attendance, or not Attendance of the said A. B. or of the said C. D. or his Deputy, as aforesaid, or other Misdemeanors in the executing, not executing, or mis-executing of the said Office in any Thing which the said C. D. might by Virtue of these Presents by himself or his Deputies execute or perform, other than from such Fines, Issues, Amerciaments, and other Penalties as shall be imposed or adjudged upon or against the said A. B. for or in Respect of any Offence, Fault or Negligence by the said A. B. at any Time after the Day of the Date of these Presents committed, omitted or done, or to be committed, omitted, or done by himself in his own Person, or by any other, except the said C. D. by his the said A. B. his Commandment or Appointment, without the Consent of the said C. D. And that the said C. D. shall himself, or his sufficient Deputy or Deputies, duly and lawfully keep, or cause to be kept within the said County of Y. all and singular County-Courts of the said County at such Times and Places as hath heretofore been accustomed: And that he the said C. D. shall and will make and appoint one or more Attorney or Attorneys, Deputy or Deputies of Record in the Courts of Record, now commonly called the King's Bench, Common Bench and Exchequer, and in all other Courts and Offices wherein Attorneys are commonly appointed; and so shall and will ordain, appoint and make one or more able Deputy or Deputies for him the said A. B. in every Hundred within the said County of Y. according to the Laws and Statutes in these Cases made and provided, so that the said A. B. shall not hereafter be liable to any Penalty or Forfeiture for want of any such Attorney or Deputy; and shall and will at his own proper Costs and Charges appear, and make ready all such Place and Places where the Assizes, Gaol-Delivery, or Sessions shall be from Time to Time holden, meet and convenient

* Covenant
to save the
Sheriff, &c.
harmless
from all
Fines,
Issues, &c.
for not ex-
ecuting,
&c. any
Writs, &c.
or other
Misdemea-
nors.

Covenant
to keep all
the Coun-
ty-Courts
of the said
County at
usual Times
and Places,
&c. And
to appoint
Attorneys
or Depu-
ties of Re-
cord in the
Courts of
Record;
and con-
stitute De-
puties in
every Hun-
dred,
&c.

Precedents.

Covenant to make ready at his proper Charges, the Places where the Assizes, &c. shall be holden. And shall give Notice to the Sheriff where his personal Attendance shall be requisite.

Covenant to collect and levy Goods of Felons and Fugitives, &c.

And to collect and gather up all Fines and Amerciaments, which he shall have Warrant to levy.

And shall account in the Court of Exchequer.

Courts, Bars, and all other Things necessary and convenient for the Justices of Assize, and other Justices to keep their Assizes and Gaol-Delivery and Sessions in, and shall and will from Time to Time give Notice in convenient Time to the said A. B. of every such Time and Times, Place and Places, where the personal Attendance of the said A. B. shall be requisite and necessary, so as the said A. B. may be personally present at such Times and Places, when and where his personal Appearance and Attendance shall be necessary.

And furthermore, that the said C. D. by and during the Continuance of the said Office, shall and will well and truly collect, levy, gather and seise to the Use of our Sovereign Lord the King all the Goods and Chattels of Felons and Fugitives, and all Persons outlawed, and put in Exigent, and of all Persons attainted and convicted of Treason, Murder or Felony, which shall happen within the said County of T. during the Time aforesaid, which shall be due or forfeited to our Sovereign Lord the King by any Ways or Means aforesaid; and shall and will from Time to Time well and truly collect and gather up all Fines, Amerciaments, Extracts, Certainties, Fee-farms, Pipe-silver for Licences, Concord for Fines, Green-wax, and all other Sum and Sums of Money, which to the Collection of the said A. B. by reason of the Sheriffwick of the said County shall appertain or belong, and which the said C. D. shall have Warrant or lawful Authority to seize, levy or collect, or which he shall have Notice of, and may reasonably come by; and thereof, and of every Part thereof, and of all other the Issues and Revenues of the said County, and of all Sums of Money due, or hereafter during the Continuance of the said Office of Sheriffwick of the said County, doth or may appertain, shall and will to his Majesty in the Court of Exchequer aforesaid, yield and give just Account, and also that he the said C. D. his Executors or Administrators, at such Days and Terms as he the said A. B. is or shall be required to enter into Account of the Court of Exchequer, for or touching the said Office, the said C. D. shall and will enter into Account in the said Court of Exchequer, in the Name of the said A. B. for and concerning the said Sheriffwick of the said County of T. in and upon which Account, the said C. D. his Executors and Administrators, shall and will truly answer all such Debts, Duties and Sums of Money, as the said C. D. his Deputies, Officers or Servants, or any of the Bailliffs of any of the Hundreds of the said County shall have received, or might have received, or wherewith the said A. B. as Sheriff of the said County shall be any Ways charged or chargeable with upon the same Account; and the same

same Account shall and will, at his the said C. D. his own Cost and Charges, prosecute with Effect, until the same Account be fully finished and concluded, without demanding any Allowance or Allowances of the said A. B. his Executors or Administrators for the same: And also that the said C. D. his Executors and Administrators shall and will pay into the Receipt of Exchequer, all such Sums of Money as upon the said Account shall be found in Arrearages within one Year next after the Feast of St. Michael next ensuing the Date hereof: And in the Name of the said A. B. obtain a lawful Discharge and *Quietus est*, out of the said Court of Exchequer, for him the said A. B. and the same shall and will deliver unto the said A. B. his Heirs, Executors or Assigns for a full Discharge of him the said A. B. his Heirs, Executors, Administrators and Assigns, of and concerning the said Sheriffwick of the said County of T. within one Year next after the said Feast of St. Michael, and that the said C. D. his Heirs, Executors, Administrators and Assigns, or some or one of them, shall and will, at some or one of their own proper Costs and Charges, disburse and pay for the said A. B. all and all Manner of Fees, Duties, Charges, Sum and Sums of Money, Rewards, Gratuities and Demands whatsoever, which shall be required, demanded, or demandable of the said A. B. as due or accustomed to be paid or given by the Sheriff of the said County, for, or by reason of the said Account, without demanding any Allowance or Allowances thereof of the said A. B. his Heirs, Executors, Administrators or Assigns: And the said C. D. doth further for the Consideration aforesaid, for himself, his Heirs, Executors, Administrators and Assigns, and for every of them, covenant, promise, grant and agree to and with the said A. B. his Heirs, Executors, Administrators and Assigns, by these Presents, that the said C. D. his Executors or Administrators, shall and will from Time to Time, and at all Times hereafter, well, duly and truly satisfie and pay all and singular such Sum and Sums of Money as he the said C. D. or any Deputy, Clerk or Clerks, Bailiff or Bailiffs, Substitute or Substitutes under him, shall at any Time and Times, and all Times levy and receive, by Virtue or Reason of any Writ or Writs, Process of Extent, *Liberate*, *Capias ad satisfaciendum*, *Fieri facias*, *Elegit*, *Distringas super Vic'* against any former Sheriff, or any other Writ or Writs of Execution or Warrants whatsoever, according to the true Purport and true Tenor of any such Writ or Writs, Warrant or Warrants respectively, and in such Manner as by the same respectively shall be limited, required or appointed; and shall from Time to Time sufficiently save harmless and defend the said A. B. his Heirs, Executors and Administrators, of, for and from all and every Sum and Sums of Money as aforesaid.

Covenant, that the said C. D. shall at his proper Conduct all Prisoners, as shall be required.

And shall at his proper Charges execute all Persons convicted and put in Execution. Covenant, that C. D. shall deliver by Indenture to the Successor of A. B. all Prisoners then in the Custody of A. B. And also all Writs, Proces, Warrants, and other Things which shall be in his Custody in respect of the said Office.

Covenant to discharge

A. B. &c.

and his Goods, &c. from all manner of Pains, Forfeitures, Fines, &c. for or by reason of any Escape of any Prisoner, or for not Appearance of any Person arrested at the Day limited, &c. or for any false Return, not Return, or Mis-return, of any Warrant, &c. or for Negligence of the said Office, by reason of the not levying or not paying of any Sums of Money, &c.

And further he the said C. D. his Heirs, Executors, Administrators or Assigns, shall and will at his and their own proper Costs and Charges, conduct and safe Delivery make of all such Prisoners as are, or hereafter shall be in the Custody of the Gaol for the said County of Y. to such Person and Persons, and to such Place and Places as the said A. B. shall by Writ, War- rant, or other Precept or Commandment, or by Virtue and in respect of his said Office, be commanded or bound to deliver the same.

And further, shall and will also at his and their own proper Costs and Charges execute, or cause to be executed, all such Persons as at any Time during the Time aforesaid, shall be convicted and put in Execution, according to the several Judgments, if the same Person or Persons be not by any law- ful Authority reprieved in the said Gaol.

And the said C. D. doth further for himself, his Heirs, Exec-utors, Administrators and Assigns, and evry of them, cove-nant, grant, promise and agree to and with the said A. B., his Heirs, Executors, Administrators and Assigns by these Presents, that he the said C. D. his Executors and Administra-tors shall and will upon the Discharge and giving up of the said Office to such as shall succeed in the said Office of Sheriff-wick, of and for the said County of Y. in due Form of Law de-liver, or cause to be delivered by Indenture to be made be-tween the said A. B. and his Successor in the said Office, to the said Successor of the said A. B. in the said Office, or to his Deputy for the Time being, all such Prisoners as then shall be in the Custody of the said A. B. or any of his Deputies or Ministers, with the Causes of their Detainments and Im-prisonments, and all such Iron Implements and Things as shall be in the Custody of the said C. D. belonging to the common Gaol of the said County, or to the Officers of the same: And also all Writs, Proces, Warrants, and other Things which then shall be in his Hands and Custody, in respect of the Office of Sheriffwick, of, in and for the said County of Y.

And the said C. D. doth further for himself, his Heirs, Exe-cutors, Administrators and Assigns, covenant, promise, grant and agree to and with the said A. B. his Heirs, Executors

and

and Administrators by these Presents, that he the said C. D. his Heirs, Executors or Administrators, shall and will from Time to Time, and at all Times hereafter discharge, defend and save harmless as well the said A. B. his Heirs, Executors and Administrators, and his and their Lands and Tenements, Goods and Chattels, as well against the King and all others whatsoever, of and from all manner of Pains corporal and pecuniary, Forfeitures, Fines, Amerciaments, Debts, Accounts, Duties and Demands whatsoever hereafter lawfully to be commenced, prosecuted, imposed, demanded or demandable of or against the said A. B. his Heirs, Executors or Administrators, or his or their Lands, Goods, Tenements and Chattels, for or by reason of any Escape of any Prisoner or Prisoners whatsoever now under Execution or under Arrest, or hereafter to be had in Execution or under Arrest, for any manner of Debt, Damage, Trespass, Account, or other Duties or Wrong; or for any Treason, Felony, or other Offence whatsoever, or for any other, or by reason of not Appearance of any Person arrested at the Day limited for the Appearance in any Court or Courts, or before any Judge or Judges, or Justices whatsoever, or for or by reason of any false Return, not Return, or Mis-return of any Writ, Warrant or Process, or for any other Misbehaviour, Negligence or Laches of the said C. D. his Bailiffs or Officers in executing or Negligence in executing, or in not Execution of the said Office of Sheriffwick for the said County of York, or for, or by reason of the not levying, answering, or not paying of any Sum or Sums of Money, which shall or may, or ought to be collected or received, by Virtue or by Reason of the said Office of the Sheriffwick of the said A. B. or having Relation therunto, or by Reason of any Writ or Writs of Assistance for the levying of any Sums of Money wherewith the said A. B. shall or may be charged or chargeable, of or for any Matter, Clause, or Thing having Relation to the said Office: And to the Intent that the said C. D. may the better perform the Execution of the said Office, the said A. B. is contented and pleased, and doth hereby grant unto the said C. D. that he the said C. D. shall have to his own use the Benefit of such Bonds and Covenants as shall be taken of any Person or Persons, wherein the same Person or Persons shall become bound unto the said A. B. as Sheriff of the said County of York, with Condition for their, or any of their Appearance in any Court, or elsewhere, before any Commissioners of his Majesty: And of all Obligations taken, or to be taken of any Bailiffs, or their Sureties; and of all other Bonds and Covenants which are or shall be made to the said A. B. as the Sheriff of the said County of York, (except the Covenants herein contained) and the Bonds and Obligations taken, or to be taken for the Performance of the said Covenants, and every of

Grant,
that the
said C. D.
shall have
to his own
use the
Benefit of
Bail-bonds
and Bailiffs
Bonds, and
all other
Bonds and
Covenants
which are
or shall be
made to
the said
A. B. ex-
cept, &c.

them, (except before excepted) and shall and may sue and prosecute the same in the Name of the said A. B. his Executors and Administrators, at the proper Costs and Charges of the said C. D. his Executors, Administrators and Assigns, and the Monies thereof and thereby recovered to have, take and detain, to his and their own Use and Uses, without any Account thereof to yield or make to the said A. B. his Heirs, Executors, Administrators or Assigns; all which said Bonds and Covenants (except before excepted) he the said A. B. doth for himself, his Heirs, Executors, Administrators and Assigns, covenant, promise, grant and agree to and with the said C. D. his Executors and Administrators, by these Presents, that neither he the said A. B. nor his Heirs, Executors or Administrators, or any of them, shall release, acquit nor discharge the said Bonds or Covenants, nor any Action, Plaintiff or Suit thereupon to be brought, or any Judgment or Execution thereupon to be had, without the Assent of the said C. D. his Executors, Administrators or Assigns, unless the said A. B. his Heirs, Executors or Administrators shall be enjoined thereunto by Order or Course of Law or Equity.

Covenant, that C. D. doth further for himself, his Heirs, Executors, Administrators and Assigns, covenant, promise and grant, to and with the said A. B. his Heirs, Executors and Administrators, by these Presents, that he the said C. D. his Executors and Administrators, shall and will from Time to Time, and at all Times hereafter, discharge, defend and keep harmless the said A. B. his Heirs, Executors and Administrators, and his and their Lands, Tenements, Goods and Chattels, of and from all Costs, Charges and Damages which may arise and happen, by reason of any Bill in Equity, or of any Nonsuit or Judgment obtained by any Person or Persons, of or upon any of the said Covenants, Obligations or Bonds to be taken for Appearance as aforesaid; or by Reason or Means of removing any Action or Suit in the Name of the said A. B. his Heirs, Executors or Administrators, against any Person or Persons upon the same Covenants, Obligations, or any of them.

Bond to perform the Covenants.

And whereas it is agreed by and between the said Parties to these Presents, that the said C. D. shall become bound by Obligation to the said A. B. in the penal Sum of 500 £, conditioned for the true Performance of the Covenants, Articles and Agreements in these Presents contained, on the Part and Behalf of him the said C. D. his Heirs, Executors and Administrators to be performed, and shall also produce five sufficient Sureties, before the thirtieth Day of January next ensuing the Date hereof, to become bound unto the said A. B. in the several penal Sums of 100 £. apiece, with the like Conditions as aforesaid.

Now

Now the said A. B. is contented and pleased, and doth by these Presents for himself, his Heirs, Executors, Administrators and Assigns, covenant, promise and grant to and with the said C. D. his Heirs, Executors, Administrators and Assigns by these Presents, that he the said A. B. his Heirs, Executors or Administrators, or some or one of them, shall and will within the Space of one Year next after the said C. D. his Heirs, Executors or Administrators, deliver or cause to be delivered unto the said A. B. his Heirs, Executors, Administrators or Assigns, the said *Quietus eti* before in these Presents mentioned, the said A. B. his Heirs, Executors and Administrators being first sufficiently and reasonably discharged and saved harmless of and from all the Payments, Penalties, Fines, Amerciaments, Damages, Dangers, and other Demands before in these Presents mentioned, upon the reasonable Request of the said C. D. his Heirs, Executors or Administrators, shall deliver or cause to be delivered up the said Obligations so to be made by the Sureties of the said C. D. as aforesaid, to such Surety or Sureties respectively, and to their respective Heirs, Executors or Administrators, to be cancelled. In Witness whereof, &c.

A. B. grants
to C. D.
that A. B.
within the
Space of
one Year
after *Quie-
tus eti* shall
deliver up
the Oblig-
ations
made by
the Sure-
ties of the
said C. D.
&c.

The Form of the Condition.

THE Condition, &c. That whereas our Sovereign Lord the King, &c. by his Letters Patent bearing Date the, &c. in the Year of our Lord, &c. did appoint, nominate, and make the within named A. B. High Sheriff of the County of T. which said A. B. afterwards by his Indenture bearing Date, &c. did ordain, depute, constitute, and make the within bounden C. D. his Deputy and Under-Sheriff of the said County of T. as by the same Indenture more plainly at large doth and may appear: If the said C. D. his Heirs, &c. and every of them do at all Times hereafter, and from Time to Time, for ever clearly acquit, exonerate and discharge, or otherwise sufficiently save and keep harmless the said A. B. his Heirs, Executors and Administrators, and every of them, and his and their Goods, Chattels, Lands, Tenements, Possessions and Hereditaments, and every of them, of and from all and every of the Sum and Sums of Money wherewith the said A. B. shall be charged, by reason of the said Office of Sheriffwick, and shall fall out not to be answered upon the Account; and of and from all Action and Actions, Plaintiff or Plaintiffs, Debt or Debts, that shall be commenced against the said A. B. his Heirs, &c. by reason of any Escape or Escapes committed, of any Prisoner or Prisoners arrested, and not committed to the Common Gaol of the said County, or afterwards by the Act or Negligence of the said C. D. or any the

Bailiff or Bailiffs, or any his Servants or Deputies, and of and from all Actions, Suits, Costs, Losses, Damages, Hindrances; and Demands whatsoever, which shall or may at any Time or Times hereafter come, grow, or be to or against the said A. B. his, &c. or his or their Goods, Chattels, Lands, Tenements, Possessions and Hereditaments, and every or any of them, for or by reason of the Premises, or any of them; that then this present Obligation, &c.

Or thus:

THE Condition, &c. That whereas the above-named A. B. Sheriff of the County of Y. hath assigned and deputed the above-named C. D. his Under-Sheriff: If therefore the said C. D. the above-bound E. F. and H. I. their Heirs, Executors and Administrators, and every of them, do at all Time and Times hereafter, save and keep harmless and indemnified as well the said A. B. his Heirs, Executors, Administrators and Assigns, and every of them, as also the Lands, Tenements, Hereditaments, Goods and Chattels of the said A. B. of, for, touching and concerning the Returns and Executions of all such Proces, Writs and Warrants, of what Nature soever they be, as are or shall be directed to the Sheriff of the said County of Y. and shall be brought and delivered or offered to be delivered to the said C. D. during the Time that the said A. B. shall be Sheriff of the said County; and of and from all Issues, Fines and Amerciaments which shall happen to be imposed or taxed upon the said A. B. for and concerning the not executing, wrongful executing or detaining in his Hands any Writs, Proces or Warrants, and of, for, and concerning all Escapes of all and every Person or Persons that shall be arrested or apprehended by Virtue of any such Proces, Writ or Warrant, during the Time that the said A. B. shall continue Sheriff of the said County of Y. And also if the said C. D. E. F. and H. I. their Heirs, Executors and Administrators, and every of them, shall save harmless and indemnified the said A. B. and his Heirs and Assigns, and his and their Lands, Goods and Chattels, of, for or concerning all such Account and Accounts as the said A. B. is or shall be charged withal as Sheriff of the said County of Y. to our Sovereign Lord the King, his Heirs or Successors, in any of his Majesty's Courts, and of all Sums of Money which shall be levied or received by the said C. D. as Under-Sheriff of the said A. B. or any Bailiff, or other Person by the Direction or Assent of the said C. D. to the Use of our Sovereign Lord the King, his Heirs or Successors: That then, &c.

But they are commonly made as all other Bonds are,
for the Performance of Covenants in this Manner:

THIS Condition, &c. That if the above-bounden C. D. do well and truly observe, perform, fulfil, and keep all and singular Covenants, Grants, Articles, Payments, Promises and Agreements, which on the Part and Behalf of the said C. D. his Heirs, Executors, &c. or any of them are to be observed, performed, fulfilled or kept, contained, written, declared or specified in one Pair of Indentures, bearing Date, &c. made between the said C. D. of the one Party, and the within named A. B. of the other Party, according to the Tenor, Purport, true Intent and Meaning of the said Indentures: That then, &c.

*An Indenture for the setting over of Prisoners and Writs
between two Sheriffs.*

THIS Indenture made the tenth Day of December, in the Year, &c. between A. B. Esq; late Sheriff of the County of T. of one Part, and G. D. Esq; now Sheriff of the said County on the other Part; Witnesseth, That the said A. B. by Virtue of his Majesty's Writ of Discharge of his late Office to him directed, hath delivered and set over unto the said C. D. these Writs following: That is to say, a *Capias* against L. M. returnable in eight Days of St. Hillary, at the Suit of N. O. &c. together with the Bodies of E. F. in Execution at the Suit of J. H. for a Debt of an hundred Pounds; and G. R. at the Suit of R. S. in Execution for forty Pounds; and W. P. in Execution as well at the Suit of S. Z. for a Debt of ten Pounds, as also at the Suit of T. W. for a Debt of thirty Pounds, &c. In Witness whereof, &c.

*An Indenture of the Knights of the Par-
liament.*

HECE Indentura fact. in pleno Com. Ebor. tent. apud Cast. Ebor. in com. predicto die Luna vicesimo tertio die Octobris Anna Regni Dom. nostri Caroli Secundi Dei Gratia, Anglia, Scotia, Francia & Hibernia Regis, Fidei Defensoris, &c. 14 inter A. B. Ar. Vic. Com. predicti ex una parte, & C. D. Ar. E. F. Ar. G. H. Ar. &c. & multis. al. person. Com. pred. & Elector. duorum. Milit. ad Parliament. in breve huic Indentur. Consul. specificat. ex altera parte, qui ut major pars totius Com. pred. tunc ibidem existent. jurat. & examinat. secund. viii. formam & effectum diversorum Statut. in-

de edit. & provis. elegerunt R. S. & T. W. Mil. infra Com. pred. commorantes, gladiis eius. Milites habiles, & magis idoneos & discret. dantes & concedentes pred. duobus Milit. plenam & sufficient. potestatem pro se & roto Com. pred. ad faciend. & consentiend. his que ad Parliament. in diff. brevi content. de Com. Consil. Regni dict. Dom. Regis nunc Angl. contigerit ordinari super negotiis in dicto brevi specificatio. In cuius rei testimonium uni parti bujus Indentur. penes dict. Dom. Regem remanen. partes pred. sigilla sua apposuerunt; alteri vero parti ejusdem Indent. pred. Vic. sigillum suum apposuit. die Dat. anno & loco supradictis.

An Indenture upon chusing of a Burges to serve in Parliament.

HEC Indentura fact. &c. inter A. B. Ar. Vic. Com. Ebor. ex una parte, & Burgenses Burgi & Vill. de S. &c. ex altera parte, Testatur, quod pred. Burgenses secundum proclamationem per eundem Vic. fact. pro eligend. Burgens. in quotlibet Burgo sive Vill. infra dict. Com. die dat. barum Indentur. apud S. elegerunt, nominaverunt & constituer. C. D. & E. F. Ar. Burgenses ejusdem Vill. de S. ad obseruand. advisament. & consil. dand. ad supremam Cur. Parliam. Majestatis sua pred. tenend. apud Westm. vicecimo secundo die Augusti prox. sequen. dat. barum presentium. In cuius rei testimonium prefat. Burgens. & Municipes his presentib. Indentur. sigilli sua apposuer. & nomine sua subscript. &c.

A Condition for the executing of a Gaolership.

THE Condition, &c. That if the within bounden C. D. his Executors and Assigns do well and truly execute and use the Office of Gaolership at the Castle of York, for the said County, and also do well, surely and safely keep all and every such Person and Persons now being in the Prison of the Kingdom of England in the said County of Y. or that hereafter shall be committed to the said Gaol, or to the said C. D. and further, that if the said C. D. his Executors or Assigns, at his or their proper Costs and Charges, do safely carry, bring and recarey all Persons in the said Gaol now being, or that at any Time hereafter shall be Prisoners there, to any such Place or Places as the said Sheriff or his Assigns shall appoint or name within the said County of Y. and furthermore, be truly diligent and attending, aiding and assisting the said Sheriff, and his Under-Sheriff and Deputies, at all and every Time and Times when any Execution shall be done within the said County to and upon any Person or Persons attainted, or to be attainted for Treason, Felony, Murder or Heresy, or otherwise, or for any other Cause, unto the End of the Execution:

And

And further, if the said C. D. his Executors and Assigns do discharge and save harmless the said Sheriff, his Heirs, Executors, Administrators and Assigns, against our Sovereign Lord the King, and against all and every other Person and Persons, and from all Manner of Escapes, Damages and Losses, Fines, Issues and Amerciaments, which by the Negligence or otherwise of the said C. D. his Executors or Assigns, that the said Sheriff shall or may in any wise be charged or incumbered with, or ought to be charged by the Law, by reason of the Office of the Sheriffwick of the said County from Time to Time, and do content and pay to the said Sheriff, his Executors or Assigns, all such Sum and Sums of Money as the said Sheriff, his Heirs, Executors or Assigns ought to pay to his Majesty, or to any other Person or Persons, or be due to the said Sheriff, by reason of the said Office of Gaolership, That then, &c.

Or thus:

TH E Condition, &c. That if the above bounden *A. B.* Gaoler to the said Sheriff of the County of York, do from Time to Time receive and take into his Ward and Custody within the Gaol at the Castle of York, in the County of York aforesaid, all such Person and Persons, Prisoner and Prisoners, which shall be committed or sent to the said Gaol, or committed to the Ward and Custody of the said Gaoler, by the said Sheriff or his Deputy, or by any Justice or Justices of Peace, or by any other having lawful Authority to commit Persons or Prisoners to the said Gaols, and the said Persons and Prisoners so committed as aforesaid, do well and truly, duly and sufficiently by his own proper Person, or by his sufficient Deputy or Deputies so keep, that the said Sheriff, his Heirs and Executors, and all the Lands, Tenements, Goods and Chattels of the said Sheriff be saved harmless from all Losses, Penalties, Amerciaments and Damages whatsoever, as well against our Lord the King, as also against all other Person and Persons, of, for and concerning the Custody and keeping of the said Gaol and Prisoners within the said Castle of York, and likewise do discharge, save and keep harmless the said Sheriff, his Heirs and Executors, and all those his Lands, Tenements, Goods and Chattels from Time to Time, and at all Times hereafter, of and from all and every Escape and Escapes, as well of convict Persons, Reprieves and Felons, and of all other Persons now committed for any Contempts, Condemnations, Trespasses or Misdemeanours which may happen, or chance hereafter to be committed to the said Gaol, for any the Causes aforesaid, during the Time the said C. D. shall be Sheriff of the County of York, and likewise that the said

A. B.

A. B. or any other by his Consent, Privity or Appointment, in any wise let to Bail or Mainprize, any Prisoner or Prisoners to him committed as aforesaid, not bailable by the Law of the Nation, without the special Commandment or Appointment of the said Sheriff: And if the said *A. B.* or his sufficient Deputy be ready to give his Attendance upon the said Sheriff and his Deputy at all Times necessary and convenient, and all and every lawful Thing and Things that he shall be required to do by the said Sheriff or his Deputy touching or concerning the, &c. Affairs and Business wherewith the said Sheriff is, or shall be charged or employed, in or about the keeping of the said Gaol or Prison, That then, &c.

An Indenture between the High Sheriff and Gaoler.

This Indenture made (the Day and Year) between Sir *W. R.* of *N.* in the County of *York*, Knt. High Sheriff of the said County of *York* on the one Part, and *A. B.* of the City of *York*, Gent. on the other Part; Witnesseth; That the said Sir *W. R.* for divers good Causes and Considerations him thereunto moving, doth nominate, constitute and appoint the said *A. B.* to be his Gaoler and Keeper of all and singular the Prisoners and Persons now in Custody within the Gaol and Castle of *York* in the said County of *York*; as also Gaoler and Keeper of all and singular other Person and Persons, as at any Time or Times hereafter during the Time he the said Sir *W. R.* shall continue, and be High-Sheriff of *Yorkshire*, and until he shall assign and set over the said Gaol to the next High-Sheriff, shall be sent, brought or committed to the said Castle of *York*, by the Sheriff, Under-Sheriff or his Deputy or Deputies, Justice or Justices of the Peace, Commissioners of Sewers, or any other Person or Persons whomsoever, having any lawful Authority thereto; And by these Presents doth grant unto the said *A. B.* all such lawful Profits, Fees and Duties, as are and shall be due unto him as Gaoler of the said Castle, from all and every Person and Persons committed, or to be committed to the said Gaol, during the Time the said Sir *W. R.* shall continue Sheriff of the said County of *York*: And the said *A. B.* doth for himself, his Heirs, Executors, Administrators and Assigns, and every of them, covenant, promise and grant to and with the said Sir *W. R.* his Executors and Administrators by these Presents, that he the said *A. B.* or his sufficient Deputies or Assigns, shall and will from henceforth stand and be charged with all and every the Prisoner and Prisoners in the said Castle, and also receive and take into his Custody and safe keeping in the said Castle, all and every Prisoner and Prisoners, which shall be from Time

to Time hereafter committed or sent unto the said Castle by the said Sheriff, his Under-Sheriff, Bailiff or Bailiffs, Deputy or Deputies, Justice or Justices of the Peace, Justice or Justices of the Assize, *Nisi prius*, Gaol-Delivery, *Oyer and Terminer*, Commissioner or Commissioners of Sewers, or other Magistrate or Officer, having a lawful Authority or Power so to do, and the same Prisoner and Prisoners so committed as aforesaid, and all other Prisoner and Prisoners now being and remaining in the Castle of York aforesaid, shall well and truly by himself, his Deputy or Deputies, keep safe and imprisoned according to the Tenor, Purport and Effect of all such Warrants, Precepts or Commandments by Virtue of which, they or any of them shall be, or stand committed or imprisoned, until such Prisoner or Prisoners shall be lawfully delivered, and set free, and at Liberty with the Allowance of his said Sheriff, or his Under-Sheriff: And that the said A. B. his Deputy or Deputies, shall not suffer any Prisoner or Prisoners whomsoever to be delivered out of the said Castle or Gaols without a *Liberate*, or some other sufficient Warrant from the said Sheriff or Under-Sheriff, or his, or their Deputy or Deputies under the Seal of the Office, first had and obtained, and such Fees as of Right are, and shall be due, and belonging to the said Sheriff be satisfied and paid: And the said A. B. for himself, &c. doth covenant, promise and grant, to and with the said Sheriff his Executors and Administrators, by these Presents, that he the said A. B. his Heirs, Executors and Administrators, or some of them, shall and will from Time to Time, well and sufficiently keep harmless and indemnified the said Sheriff and his Under-Sheriff from all Action and Actions, which hereafter shall or may be procured against them, or either of them, their or either of their Heirs, Executors or Administrators, for the Escape or setting at Liberty any Person or Persons, which shall or may be committed to the Custody of the said A. B. his, or any of his Deputy or Deputies: And also that the said A. B. his sufficient Deputy or Deputies, shall and will at all and every Assize and Gaol-Delivery to be holden at the said Castle of York, or elsewhere in the said County of York, and at all and every the Sessions of the Peace within the said County, during the Time the said Sheriff shall continue in his said Office, at his the said A. B. proper Costs and Charges, find and provide a Top Hangman or Slaughterman, for the executing, burning, hanging or quartering, and other the Execution and Correction of Criminals, as also Irons, Bolts, Locks, Manacles and Ropes, as often as Occasion shall be, and shall and will upon Demand deliver unto the said Sheriff, Under-Sheriff and Deputy, the said Castle or Gaol, as also a true and perfect Calendar, containing all the Prisoners Names within the said Castle, and mentioning all the several Causes, of their and every of their

their Imprisonment, and shall from Time to Time well and sufficiently save, defend, keep harmless and indemnified the said Sheriff, his Heirs, Executors and Administrators, of and from all Manner of Actions, Suits, Troubles, Executions, Fines, Penalties, Extents, Damages and Incumbrances whatsoever, for or by Reason or Colour of any Act or Neglect of him the said A. B. his Deputy or Deputies, Servants or Assigns; and that he the said A. B. his Executors, Administrators and Assigns, shall upon six Days Notice, as Warning, left with the Porter or Keeper of the Gates of the said Castle, give better and further Security for the safe keeping of the Prisoners committed to the said Gaol, and to perform all Covenants, Promises and Agreements in these Presents contained, which on his and their Parts are to be observed and performed. In Witness, &c.

Articles between the High Sheriff and a Bailiff of a Wapentake or Hundred.

Articles of Agreement indented and made the tenth of March, in the Year, &c. between A. B. of R. in the County of T. Esq; High Sheriff of the said County of the one Part, and C. D. of B. in the said County, Gent. of the other Part.

To be Bailiff during the Pleasure of the Sheriff.

Whereas the said A. B. by his Deputation under the Seal of his Office, hath constituted and appointed the said C. D. to be his Bailiff within the Wapentake of Ercross, to execute and enjoy the same Office only during the Pleasure of the said A. B. Now it is covenanted and agreed between the said Parties, and the said C. D. for himself, his Executors, Administrators and Assigns, for the Considerations aforesaid, doth covenant and grant unto, and with the said A. B. his Heirs, Executors and Administrators in Manner following:

To execute and return Writs.

First, That the said C. D. shall and will during such Time as he shall execute the said Office, well and sufficiently perform, and do whatsoever to the said Office belongeth, as well within the said Wapentake as without: And shall with Speed and Secrecy serve and execute, or cause to be served and executed, all and every Precept and Warrant to him directed by the said High Sheriff or Under-Sheriff. And shall make a true Return thereof to the said Under-Sheriff or his Deputy, by the space of four Days before the respective Returns thereof: And shall likewise from Time to Time save and keep harmless the said High Sheriff, his Heirs, Executors and Administrators, Lands, Tenements, Goods and Chattels, of and from all Escapes, Americaments, Fines and Sums of Money, or other Charges and Incumbrances whatsoever, which shall or

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may be imposed, or happen upon the said High-Sheriff, for or concerning the executing or returning of them, or any of them.

2. Item, That he the said C. D. his Executors or Assigns, shall well and truly pay, or cause to be paid to the said Under-Sheriff or his Assigns, at his Office in the City of Y. or elsewhere, the Blank-farm due to his Majesty within the Wapentake, within six Days next after the Annunciation of the blessed Virgin Mary, and Michael the Archangel, by equal Portions; and shall likewise at his own proper Costs and Charges faithfully and truly levy, collect and gather all and every Sum and Sums of Money of what Nature soever within the said Wapentake, as are, and shall from Time to Time grow due and payable to his Majesty, or which are and shall be within the Charge of the said Sheriff, and esreated, and given in Charge to the Collection of the said C. D. or his Assigns; and shall within three Weeks next after any Esreat or Warrant to him directed for the levying and collecting thereof, pay, or cause the same to be paid unto the said Sheriff or his Deputy at Y. or elsewhere, or make his personal Appearance there, to give a just Account for what Cause he hath not collected nor levied the same.

3. Item, That the said C. D. shall diligently enquire of the Goods and Chattels of Felons and Fugitives, and of all Persons outlawed and condemned, and of Goods and Chattels waives and forfeited. And of the same shall lawfully make an Inventory and seize into his Majesty's Hands, as Bailiff of the said Wapentake; and shall likewise truly account for and deliver, or cause to be delivered unto the Hands of the said Sheriff or his Deputy, the Goods so seized and inventoried, within one Month next after such Seizure and Inventory made.

4. Item, That the said C. D. shall from Time to Time give lawful Summons and Warning to all such Persons, Jurors and Freeholders, as shall from Time to Time by Warrant from the said High-Sheriff or Under-Sheriff, be appointed to appear before his Majesty, his Justices of Assize or Gaol-Delivery, Justices of the Peace, or before any other Person or Persons having any lawful Authority to summon the same Persons, and that he himself shall personally attend at the same Assize and Gaol-Delivery, Sessions of the Peace, and at the Common Court, to make his Returns, and do all the Services belonging to the Bailiff of a Wapentake, if he be in Health or able to perform the same, or otherwise by his sufficient Deputy to be allowed under the High Sheriff's Seal of Office.

S. Item,

To take a Book of Freeholders. And shall save harmless the Sheriff from all Issues and Amerciaments, for not returning or mis-returning of any Freeholder.

To secure Persons arrested.

To secure Goods levied.

To account for and pay Fees due to the Sheriff.

5. Item, That he the said C. D. shall before the 12th Day of January next coming, deliver or cause to be delivered unto the Hands of the High-Sheriff or Under-Sheriff, one Paper-Book fairly written, containing the Names, Surnames and Additions, together with the Dwelling-places of all such Freeholders as are now dwelling and resident within the said Wapentake of Eversoſ, and shall likewise save and keep harmless the said Sheriff, his Lands and Tenements, Goods and Chattels, of and from all Issues and Amerciaments which shall or may be charged upon them, or any of them, for and by reason of returning, not returning, or mis-returning of any Freeholder or Freeholders by the said C. D. or his Deputies.

6. Item, That the said C. D. his Deputy or Deputies, shall bring or cause to be brought to the Castle of T. all such Person and Persons, as shall by them or any of them be arrested by Virtue of any Warrant or Warrants, upon any *Capias ut lagatum* or *Capias ad satisfaciendum*: And that likewise upon all Arrests of Persons bailable, take sufficient Bond with two Sureties for their Appearance at the Return of the Writ, and the said Bonds so taken shall deliver unto the Under-Sheriff or his Deputy, by the Space of six Days before the respective Days of their several Appearances.

7. Item, That neither the said C. D. nor any of his Deputies make any Sale of any Goods by him or them, or either of them, seized or taken for any of his Majesty's Debts, or upon any Execution between Party and Party. Nor shall detain or keep in his or their Hands any Goods so taken by the Space of four Days, but shall bring, send or deliver the same unto the said Under-Sheriff, his Deputy or Deputies, with a true Copy of their Appraisements, and the Names of the Appraisers, in case the Owners or some Friends for them shall deny to take them as they are apprized, or to pay the Debts and Sums for which they were so seized and taken, together with the reasonable Charges expended concerning the same.

8. Item, That the said C. D. his Deputy and Deputies, and every of them, shall from Time to Time, within six Days after Notice or Command to him or them given by the said High-Sheriff or his Deputy, repair and come to his Office at T. or elsewhere, and then and there make a just and perfect Account, for and concerning all Fees, as well for Arrests and Perquisites of Courts, as for all other Dues and Profits unaccounted for whatsoever, and which he and they, or any of them, shall have received and taken, during such Times as he the said C. D. shall continue Bailiff of the said Wapentake, which of Right belongeth unto his Majesty, or the said now Sheriff, or his Under-Sheriff. And the said High-Sheriff or Under-Sheriff, upon his true Account so to be made by the said

said C. D. shall return unto him the said C. D. all the Overplus of the said Sum so deposited by the said C. D. to the said High-Sheriff or his lawful Deputy, as shall remain in his the said Sheriff's Hands after the perfecting of the said Account.

9. Item, That he the said C. D. shall after the several general Assizes and Gaol-Delivery, and Sessions of the Peace, be present and ready in his own Person, safely to carry and conduct the Prisoners condemned to the Place of Execution, and not to depart thence without Licence from the High-Sheriff or Under-Sheriff; and shall likewise from Time to Time so often as he shall be thereto required by the said Sheriff, Under-Sheriff or his Deputies, be ready to aid and assist them, or any of them, for the apprehending of any Traytor, Priest or Felon, or for any other Matter or Thing whatsoever, concerning his Majesty's Service within the said County. In Witness whereof, &c.

The Bond for the Performance of these Articles is ordinarily made as all other Bonds are for the Performance of Contracts.

A Bond entred to a Sheriff for one's Appearance in the Common Bench.

Noverint universi per presentes nos A. S. de S. in Com. Ebor. Gen. C. D. de R. in dict. Com. Ar. & B. F. de T. in Com. pred. Yeoman, teneri & firmiter obligari G. M. Ar. Vit. Com. prad. in 30 l. bona & legalis moneta Anglia solvendi eidem G. M. aut suo certo in hac parte Attorn. Executor. vel Assign. suis ad quamquidem solutione bene & fideliter faciend. obligamus nos & quenlibet nostr. per se pro toto & in solid. Hered. Executor. & Administrator. nostros firmiter per presentes sigillis nostris signata. Dati 20 die Junii, Anno Regni Dom. nostri Caroli Secundi Anglia, &c.

The Condition.

THE Condition of, &c. That if the above-bounden M. B. do appear before the Justices of the Common Bench at Westminster, in the Morrow of the Holy Trinity to answer M. N. Gent. in a Plea of Debt; That then this present Obligation to be void, &c.

In the King's Bench thus:

THIS Condition, &c. That if the above-bounden A. B. do appear before our Sovereign Lord the King at Westminster, on Saturday next after the Morrow of St. Martin, to answer to M. N. of a Plea of Trespass, That then, &c.

Note, That King's Bench Writs are always returnable upon a Day certain, as on Monday, Tuesday or Thursday, &c. next after the Morrow of St. Martin, &c. and are always in Trespass, until of late by Act of Parliament the Cause of Action is to be especially inserted. But Common Bench Writs are in Debt, Trespass, Account, Trespass upon the Case, &c. as the Case requires, and are not returnable on a certain Day, but returnable on the Morrow of the Holy Trinity, or the Morrow of St. Martin, &c.

An Indenture of Covenants to a Sheriff to save him harmless for returning a Devastavit against an Executor.

THIS Indenture made, &c. between Sir A. S. Knight, High Sheriff of the County of Y. and C. D. Gent. Under Sheriff of the said High Sheriff of the said County of Y. of the one Part, and E. F. of, &c. of the other Part, Witnesseth, That whereas the said E. F. hath obtained and sued out of his Majesty's Court of Common Pleas at Westminster, his Majesty's Writ of *Fieri facias* to the said Sheriff directed, bearing Teste the 29th Day of June now last past, and returnable in the said Court in eight Days of the Holy Trinity last past, thereby commanding the said High Sheriff to levy of the Goods and Chattels which late were of P. K. of, &c. deceased, at the Time of his Death in the Hands of W. T. Executor of the Testament and last Will of the said P. K. the Testator, a certain Debt of 200*l.* which the said E. F. in the said Court hath recovered against the said W. T. the Executor, as by the said Writ now delivered to the said Sheriff in Form of Law to be executed, more at large appeareth.

And whereas the said E. F. hath informed the said High Sheriff and Under-Sheriff, that divers Goods, Chattels and Debts, which were the said P. K.'s the Testator, at the Time of his Death, to the Value of his said Debt of 200*l.* after the

Death

Death of the said P. K. the Testator, came to the Hands of the said W. T. the Executor within the said County to be administered; and that the Executor since the Death of the said P. K. the Testator, hath wasted the same, so that unless the said Sheriff shall upon the said Writ of *Fieri facias* make his Return to this or the like Effect, viz. That the said Goods and Chattels, which were the said P. K's the Testator at the Time of his Death, to the Value of the said 200*l.* did after the Death of the Testator come to the Hands of the said Executor within the said County of T. to be administered; and that the said Executor hath wasted the same, so that the said Sheriff cannot by Virtue of the said Writ of *Fieri facias* do Execution thereupon of the Goods and Chattels as is thereby required: And so that also the said E. F. cannot by Course of Law have the Benefit of the said Recovery; whereupon the said High Sheriff and his Under-Sheriff, being desirous to do what to them, or either of them, by Virtue of their said Office appertaineth, for the Furtherance of Justice in that Behalf, giving Credit to the said Assertion and Affirmation of the said E. F. the said High Sheriff at his earnest Request hath upon the said Writ of *Fieri facias* in Form of Law returned to his Majesty's Justices of the said Court of Common Pleas, a *Devastavit* of the Goods and Chattels, which were the said Testator's at the Time of his Death, and came to the Hands of the said Executor to be administered to the said Value of the said Debt of 200*l.* Now therefore these Presents do Witness, that the said E. F. and T. P. for the Indemnity and saving harmless of the said High Sheriff and Under-Sheriff, and of their and either of their Clerks, of, for and concerning the making of the said Return, in case the Assertion and Information of the said E. F. be not true, do by these Presents, covenant and grant jointly and severally for themselves and every of them, and for their and every of their Executors or Administrators, to and with the said A. B. and C. D. and either of them, their and either of their Executors and Administrators, that they the said E. F. and T. P. or some of them, shall and will at all Times hereafter discharge, acquit and save harmless the said A. B. and C. D. and either of them, their and either of their Clerks, and the Heirs, Executors and Administrators of them and every of them, for and concerning all, and all Manner of Actions, Suits, Complaints, Losses, Vexations and Troubles whatsoever, which shall at any Time hereafter be commenced, attempted, brought or prosecuted against them, or any of them, by the said P. K. the Executor, his Executors or Administrators, or by any other Person or Persons, touching or concerning the said Return, or by Reason or Occasion thereof: And shall and will from Time to Time bear and pay to them the said Sir A. B. and C. D. all such Sum and Sums of

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Money, Damages, Cost and Expences, as against them, or either of them, or against their or either of their Executors or Administrators, shall be adjudged, decreed or ordered, or which they or any of them shall from Time to Time by Reason or Occasion aforesaid, be put unto, or shall necessarily lay out, or be enforced to pay by Reason of any such Action, Suit, Complaint, Molestation, Vexation or Trouble: And for the true Performance of all and singular, which said Premisses the said E. F. and T. P. do by these Presents bind themselves jointly and severally, and their and either of their Heirs, Executors and Administrators, to the said Sir A. B. and C. D. in the Sum of 300*l.* of good, &c. to be paid to them, or either of them, their, or either of their Executors or Administrators, if Default or Breach of the Covenant aforesaid shall be made. In Witness, &c.

An Affidavit upon a Rescue.

Whereas A. B. Esq; High Sheriff of the County of Y. upon a *Capias ad legatum* to him directed issuing out of his Majesty's Court of Common Pleas at Westminster, did direct his Warrant to R. D. and G. J. Special Bailiffs in that Behalf deputed, and to either of them, jointly and severally commanding them thereby to arrest, take and apprehend R. G. Gent. and him safe keep, so that the said Sheriff might have his Body before his Majesty's Justices at Westminster, in *Cassino Ascensionis Dom.* then next following, and now last past: He the said R. D. maketh Oath, that upon the first Day of M. last past, he the said R. D. by Virtue of the said Warrant at M. in the said County of Y. did apprehend, arrest and take into his Custody and keeping the said R. G. and him detained as a Prisoner by the Space of an Hour, or thereabouts: And further saith, that presently after, that is to say, upon the same first Day of May, J. H. of M. aforesaid in the said County, Yeoman, did with Force and Arms make an Affray upon the said R. D. and that the said J. H. and M. his Wife, and T. P. of M. in the said County of Y. Yeoman, did with Force and strong Hand rescue and set at Liberty the said R. G. from the Custody, and against the Will of the said R. D. and did then and there, with Force and strong Hand, beat, bruise and evil intreat the said R. D. notwithstanding he the said R. D. did then and there request the said J. H. M. and T. P. and every of them, to aid and assist him in the said Arrest. Jus-
ta, &c.

A Condition of a Bond from a Deputy Bailiff to a Chief Bailiff.

TH E Condition, &c. that whereas the above-named *W. B.* being Chief Bailiff of the Wapentake of *Wye* and *Darwent* under *A. B.* Esq; High Sheriff of the County of *Y.* hath at the special Instance and Request of the above-bounden *C. D.* permitted, nominated and appointed him the said *C. D.* to be a Deputy-Bailiff under him the said *W. B.* during the Pleasure of the said Sheriff, as by a Deputation under the said Sheriff's Seal, doth more at large appear. If therefore the said *C. D.* shall from Time to Time, during all the Time he shall continue Deputy-Bailiff under the said *W. B.* well, faithfully and honestly execute the said Place or Office of a Deputy-Bailiff in every respect; and shall be obedient to all the lawful Commands of the said *W. B.* and give a true, just and full Account of his Doings therein to the said *W. B.* or his Assigns, made to the said *C. D.* and likewise shall at all Times hereafter, well and sufficiently lave, defend and keep harmless the said *W. B.* his Heirs, Executors and Administrators, and every of them, and every such Person and Persons, as are become Sureties to the said High Sheriff for the said *W. B.* concerning his Office of a Chief Bailiff as aforesaid, of and from all and all Manner of Action and Actions, Suits, Troubles, Losses, Payments of Money and Incumbrances whatsoever, which may any way happen to be against him, them, or any of them, for or by reason of any Act, Neglect or Misdoing of the said *C. D.* in the aforesaid Office of a Deputy-Bailiff, under the said *W. B.* That then, &c.

A Discharge to the Sheriff (for a Prisoner) from him to whom the Prisoner is indebted.

KNOW all Men by these Presents, That I *A. B.* of *C.* in the County of *Y.* have remised, released, acquitted and discharged, and by these Presents do for me, my Heirs, Executors, Administrators and Assigns, remise, release, and fully and absolutely acquit and discharge *E. F.* High Sheriff of the said County of *Y.* and *G. H.* his Under-Sheriff, their Heirs, Executors and Administrators, of and from all and all Manner of Escapes, as well voluntary as negligent, and of and from all Actions, Cause and Causes of Actions, for or concerning the enlarging or setting at Liberty of the Body of *L. M.*

Precedents.

taken at my Suit by Virtue of a *Capias ad satisfaciendum* to the said Sheriff directed, of ten Pounds Debt, and forty Shillings Costs of Suit, returnable in the Court of Common Pleas in Easter Term last past; and I the said A. B. do hereby discharge the said Sheriff from all Actions, Reckonings, Duties and Demands whatsoever, concerning the executing of the said *Capias ad satisfaciendum* In Witness whereof, &c.

Or thus:

K Now all Men by these Presents, that I A. B. of, Esq. have remised, released and quit-claimed, and by these Presents do remise, release and quit-claim unto C. D. Esq; now Sheriff of the said County of Y. all manner of Actions, Suits, Troubles and Incumbrances whatsoever, which I might, may, or ought to have against him for or concerning the discharging, or setting at Liberty of L. M. of N. in the said County, Gent. being arrested and imprisoned upon a *Capias ad satisfaciendum*, out of the Court of Common Pleas at Westminster for an hundred Pounds Debt, and twenty Shillings Costs, at my Suit, returnable from the Day of Easter in one Month last past. In witness whereof I have hereunto set, &c.

Or thus:

K Now all Men by these Presents that I T. E. of C. in the County of Y. Yeoman, have had allowed unto me by T. H. in the Purchase of certain Lands and Tenements at C. aforesaid, the Sum of 12 L. in full Satisfaction of the Judgment entered in the Court of Common Pleas at Westminster against the said A. B. at my Suit for 10 L. Debt, and 40 s. Damages, and in Discharge of the Execution upon the same Judgment, and what else I can demand of the said A. B. being now a Prisoner in the Castle of Y. at my Suit; and therefore I do hereby discharge him from the said Execution and Imprisonment, and do request the Sheriff of the said County for any Action or Execution, that is against the said A. B. at my Suit to set him at Liberty: And for the said Sheriff, or any of his Officers so doing, this shall be his, and their, and every their sufficient Warrant. Witness my Hand and Seal, &c.

A. C. 16
M. 2 16

A Condition that the Sheriff executing a Writ, may detain out of the Goods and Lands extended, so much Money, &c.

TH E Condition, &c. That whereas the within bound A. B. the Day of the Date hereof, hath delivered to the Hands of the within named C. D. and E. F. the Writ of Execution, for levying and extending the Goods, Chattels, and Moiety of the Lands, Tenements and Hereditaments of one G. H. of, &c. to and for the Use of the said A. B. whereby the same A. B. may be satisfied of the Sum of 200 l. mentioned in the said Writ, if in case the said C. D. and E. F. or either of them, do lawfully execute, or cause to be lawfully executed, the said Writ according to the Nature, Meaning and Purport thereof, by the impanelling of twelve lawful and indifferent Men to be sworn of the Contents of the said Writ, if then the said A. B. his Executors and Administrators, do quietly permit and suffer the said Sheriff or Under-Sheriff to have, take, receive and detain to his and their own proper Use and Behoof, out of such Monies, Goods or Chattels, as shall be had, levied or received by Virtue of the said Writ, or the Execution thereof, so much in lawful Money of England, or other Benefit, as they or the said Sheriff or Under-Sheriff, or one of them, shall think reasonable or sufficient for their Satisfaction of and for such Travel, Pains or Charges as they shall be at, in and about the Execution of the said Writ, and Extent thereupon to be had or made; otherwise within, &c. next after the said Writ shall be executed, and Return made thereof, accordingly do pay, or cause to be paid unto the said Sheriff or Under-Sheriff, or their Deputy or Deputies, so much lawful Money of England, as they shall for the Causes aforesaid reasonably demand, That then, &c.

A Mittimus by the County-Clerk upon an Exigent.

J. B. Armiger Vic. Com. præd. Custodi Gaole Domini Regis Caſtri ſui Eborum & ejus Deputar. salutem Vobis mando quod Corpus J. M. qui redditit ſe priſonarium ſuper breve Domini Regis de Exigi facias mihi direcſi. ad ſectam iphius Domini Regis & T. Be qui tam, &c. in placito debiti ſuper demand. ducent. & viginti librarum ſalvo Caſted. ſecundum tenorem præd. brevis de exigi facias. Et hoc, &c. dat. ſub ſigillo officii, &c.

A Bar.

*A Bargain and Sale of Goods made by the Sheriff, by
Vertue of his Office.*

TO all People to whom this present Writing shall come,
Sir H. B. Knight, Sheriff of the County of Y. greeting.
Whereas by Virtue of his Majesty's Writ of *Fieri facias* to me
directed out of his Majesty's Court of Common Pleas at West-
minster, for the levying of 100*l.* Debt, and 40*s.* Damages,
which Sir H. B. Knight, Lord Chief Justice of the said Court
of Common Pleas, hath recovered in the said Court against
E. F., Administrator of the Goods and Chattels which late were
J. R.'s late of R. in the said County, Gent. deceased, at the
Time of his Death, to be levied upon the Goods and Chattels,
which late were the said J. R.'s at the Time of his Death in
the Hands of the said E. F. to be administered, if so much of
them do remain in the Hands of the said E. F. to be adminis-
tered; and if not, then the Damages to be levied of the pro-
per Goods of the said E. F. as by the said Writ returnable
from the Day of the Holy Trinity in three Weeks, more at
large appeareth: I have taken into my Hands all and singular
the Goods and Chattels mentioned in an Inventory hereunto
annexed, being the Goods and Chattels which late were the
said J. R.'s at the Time of his Death, and found in the Hands
of the said E. F. unadministred.

Now know ye, That I the said High Sheriff, by Vertue of
the said Writ, and of my Office, and for and in Consideration
of the Sum of 200*l.* of good, &c. to me the said High She-
riff in Hand paid, do hereby as much as in me lieth, by Ver-
tue of my said Office, fully and absolutely bargain, sell and
deliver to the said E. F. his Executors, Administrators and
Assigns, all and singular the said Goods and Chattels, To have
and to hold, and enjoy the same unto the said E. F. his Exe-
cutors and Administrators for ever. In Witness whereof I
have hereunto set my Seal of Office the tenth Day of May, in
the Year of our Lord, 1658.

*A Warrant of Attorney by the Sheriff to return
Writs in the Court of Common Pleas.*

Ebor. ff. I J. Miles Vic. Com. prad. ponit loco suo I. H. ad reci-
piend. apperend. & returnand. omnia & singula bre-
via Warrantia & Praecepta eidem Vic. ut Vic. Com. prad. direct. &
diri-

dirigend. coram Justic. Domini Regis de Banco resonabil. & re-
turnand. secundum formam Statutū nuper edit. & provis.

A Warrant to levy the Exchequer Fines.

Ebor. sc. I. R. Armiger Vic. Com. pred. omnibus & singulis bal-
liis meis in Com. predicto & eorum deputat. Salutem
Virtute brevis, &c. mando quod non omittatis propter aliquam liber-
tatem in Com. predicto. quin eam ingred. Et de bonis & catallis
terrī & tenementis separalium personarum in schedula sive libro huic
Warranto annex. nominat. & specificat. fieri faciat seu unus ve-
strum fieri faciat separales denariorum summas super ipsos & eorum
quemlibet onerat. sive ab eis vel eorum aliquibus exact. Ita quod
denarios illos habeam coram Baronibus de Scaccario dicti Domini Regis
apud Westm. indilate. Et de tempore in tempus eosdem denarios
mihi solvetis seu unus vestrum mibi solvet ut eos levaveritis. Et
hoc nullatenus omittatis periculo incumbente Dat. sub sigillo officiū
mei, &c.

A Warrant to warn a Jury to appear at Westminster.

T. Miles Vic. Com. predicti omnibus, &c. virtute, &c.
mando quod non omittas propter aliquam libertatem Com. pra-
dicti quin sumon. seu unus vestrum sumon. & venire facias separa-
les personas quorum nomina subscribuntur. Ita quod sint & quilibet
eorum sit coram dicto Domino Rege apud Westm. die veneris proce-
post, &c. ad recogn. super Sacramentum suum si A. B. culpabilis sit
de quibusdam prodictionibus personam dicti Domini Regis tangen. unde
indictat. est necne. Et hoc, &c. dat. sub sigillo, &c.

Deputation to convey a Prisoner upon a Habeas Corpus.

A. Esquire, Sheriff of the County of Y. to all to
whom these Presents shall come greeting: Whereas
I have received his Majesty's Writ to me directed, where-
by I am commanded to have the Body of W. H. Gent. now
Prisoner in my Custody, before his said Majesty on Wednesday
next

next after, &c. to undergo and receive, &c. as by the said Writ more at large appeareth: Now know ye, that I the said Sheriff have nominated, deputed, authorized and made, and by these Presents do nominate, depute, authorize, and make A. B. C. D. and E. F. of the City of Y. and every of them, to be my Deputies, and for them, or any of them, to take and receive into their or any of their Custodies, the said W. H. and him to convey to Westminster, and there have his Body at the Day aforesaid, together with the said Writ and Return, to deliver into the said Court, and to do and perform for me what is by me there to be done. Given under the Seal of my Office (the Day and Year.)

THE

THE JUDICIAL AND
Ministerial Office
OF CORONERS.

THIS Office of Coroner hath its Etymology and Coroner, Derivation from *Corona*, being an Officer of the whence Crown from Antiquity, and hath principal Cognizance of some Pleas called *Placita Coronae*.

He was established by the ancient Kings, *Alfred*, Time and *etc.* to be *Principalis conservator pacis*, according to the Reason of *Mirror of Justice*, which saith, *Auxi ordinans fuer Coronours in eboracum County, & Viscounts a garder le Peace, quant les Comites soy demisserent del gard, & Bailiffs in lieu de centenars* (that is) Coroners in every County, and Sheriffs were ordained and constituted to be Conservators of the Peace, when the Earls dismissed themselves of the Custody of the Counties, and Bailiffs in Place of Hundredors: But of his Antiquity and Jurisdiction, see 2 Inst. *Magna Charta*, cap. 17. *Merton*, cap. 3. *Redist. et Reconstitut. Westm.* 1. cap. 10. and 26. and *Articul. super Chartas*, cap. 3.

This Office of Coroner is General and Special. *General* in respect of all causes, *Special*, in respect of such causes as are peculiar to the office of Coroner, as follows:—
 1. To enquire into all deaths which happen within the realm, whether they be natural or violent, sudden or otherwise, and to make inquiry into the cause of death, and to give judgment thereupon, and to inflict punishment upon such persons as shall be guilty of any wilful or felonious homicide.

1. General.

Mirrour,
c. 1. Sect. 13.

TO the Office of general Coroners appertains the receiving of the Appeals of the whole County, of Felonies committed within the Year; to award the Exigents of Contempts, and to pronounce the Judgments of Outlawries upon County-Days (of which see more in the County-Court) and likewise in what Pledge or Decenary they were, or of whom mainprised, and in whose Ward.

2. Special.

*Artic. super
Chart. c. 3.*

*Vide 3 H. 8.
c. 12. SCITE
notum*

*Ench Ley
lib. 3. c. 24.*

Special Coroners are Coroners of Liberties, and of privileged Places, as Coroner of the Verge, viz. Coroner of the King's Household, &c. To demonstrate the Distinction of the Authority and Jurisdiction of general and special Coroners; see *Wrota and Wigg's Case*, Rep. 4. fol. 45, 46. where it was resolved, That at Common Law the Coroner of the King's House had an exempt Jurisdiction within the Verge, and the Coroner of the County cannot intermingle therein, as appears by the Preamble of the Statute of *Articuli super Chartas*; because that before this Time many Felonies done within the Verge have been unpunished; and the Reason and Cause thereof was, because the Coroners of the County are not sufficient to interpose to enquire of Felonies within the Verge, but the Coroner of the King's Household, which is past-sanc. By which it appears, That the Coroners of the County could not intermeddle with the Death of a Man within the Verge, but the Coroner of the Household only. And so was it adjudged. *Besch. 24. Aliis.* in the King's Bench, where *Swift* was indicted before the Coroner of the County of Middlesex, of a Murther done at *Turhill* in the said County of Middlesex, which Indictment was removed into the King's Bench, and there *Swift* pleaded, that *Turhill* was at the Time of the Murder, and yet is within the Verge, &c. upon which the Attorney did demur in Law, and it depended in Advisenment three Terms, and at length the Plea was adjudged good, and thereupon he was discharged of the Indictment; for as the Coroner of the Household cannot intermeddle within the County out of the Verge, because his Office extended not to it: So the Coroner of the County cannot intermeddle within the Verge; and it shall be contrary to Reason, that their Offices and Jurisdictions being several and distinct, the one should intermeddle within the Jurisdiction of the other. But it was resolved, that the Justices of the King's Bench, Justices of *Oyer and Terminer*, Gaol-Delivery, and Justices of Peace, may

may enquire of, hear and determine all Murders and Felonies within the Verge, because their Authority and Jurisdiction are general through the whole County, and always hath been so used, and so was adjudged without any Scruple in Holtroff's Case.

What Person ought to be Coroner, and how qualified.

Of ancient Time this Office was of such Estimation, that none could have it but a Knight, if we look back to the Statute of Westm. 1. cap. 10. and the Current of the Writ in the Register, fol. 177. b. is, *Nisi sit Miles, &c.* and such as one, *Qui melius sciat, & possit officio illi intendere.* For this was the Policy of prudent Antiquity, that Officers did ever give a Grace to the Place, and not the Place (only) to grace the Officer: Therefore it was holden a principal Cause to remove and discharge a Coroner if he were not a Knight, and had not a hundred Shillings Rent of Freehold. Yet in F. N. B. *Coronatore eligendo*, it is not allowed a valid and sufficient Cause to remove him, (though he be not a Knight) at this Day, alledging, That those Words were inserted into the Statute, to the Intent that a Coroner should have sufficient within the County to be responsible for all that he doth or ought to do by his said Office. Mr. Will. in his Office of a Coroner also saith, That this Statute requireth such a Coroner as can will, and may attend to execute the said Office: And therefore (saith he) if such a Coroner be elected, as cannot, will not, or may not attend the Execution of the said Office, he is to be removed and discharged by Writ from the same Office; and the Cause of his not Attendance, Debility or Insufficiency must be rehearsed in the Writ: And if he be discharged of his Office by a false Suggestion, he may by a Petition in Chancery pray a Commission to enquire of this false Suggestion, and if it be found and returned into the Chancery, then his Majesty may grant a *Supersedeas* to the Sheriff of the County, that he remove not the said Coroner from his Office; and if he be removed before the *Supersedeas* come, then that he permit the Coroner removed to execute his Office as he did before his Removal.

He must have two Properties, viz. sufficient Knowledge, Ability, and Diligence in executing his Office. Sir Edward Coke in the second Part of his *Institutes*, Westm. 1. cap. 10. saith, he should have five Properties, viz.

See Brit.
e. 3. fol. 3.
Statut. pl.
coron. 84.
5. Register,
177.

F. N. B. de
Coronatore
eligendo
et de ele-
ctione Viri-
dariorum.

Co. Inst. 2.
fol. 174, C.
175.

The Office of a Coronier.

1. He should be *probus homo*.
2. *Legalis homo*.
3. Of sufficient Understanding and Knowledge.
4. Of good Ability and Power to execute his Office according to his Knowledge.
5. Diligent in executing of his Office.

And the Common Law doth not only require expert Men to be Coroners, but Men of sufficient Ability and Livelihood for three Purposes, viz.

1. The Law presumes they will do their Duty, and not offend the Law, for fear of Punishment, whereunto their Lands and Goods be subject.

2. That they might execute their Office without Bribery.

3. That they be able to answer to the King all such Fines and Duties as appertain to him, and to discharge the County thereof, wherewith the County being their Electors were chargeable. For the Coroners being elected by the County, if they be insufficient, and not able to answer such Fines and other Duties in respect of their Office, as they ought, the County as their superior shall answer the same. As for Example, the County of Kent made Election by Force of the King's Writ of *William Herlizon* to be one of the Coroners for the same County, who after was amerced for a false Return of forty Shillings; whereupon Process went out to the Sheriff to levy it: The Sheriff upon his Oath said, That the said *William Herlizon* non habet terras vel tenementas, bona few etatallia in balliva sua, net habuit, unde dict. denarii levavi possit? Now saith the Record, Et quia ipse Coronator electus fuit per comitatum, &c. ita quod in defacta ejusdem Coronatoris totus Comitatus ut elector & superior, &c. tenetur regi respondere, praeceptum fuit nunc vicecomitis quod de terris &c. tenementis hominum eiusdem Comitatus in balliva sua fieri fac. p. ad. 40 s. And the like Law was of the Sheriff, and other the said Officers, when they were eligible.

In Scaccaria inter precept. term.
Hill. 14.
E. 3. ex parte reman. regis
20 H. 9.

They continue in Power on the Demise of the King. Dyer El. fol. 165. They remain Conservators of the Peace within the County where they are Coroners, notwithstanding the King's Death, for being elected by the Freeholders of the County by Writ, and returned of Record in the Chancery, which is a judicial Act, remaineth; and so of the Verderer: It is otherwise of Judges and Justices that hold their Place by Writ, Commission, Letters Patent, or otherwise, at Will, whose Authority is determined by the Death of the King, for by the Commission, &c. he makes them *Justiciaris sui*; so that he being once dead, they are no more his Justices. And it might be a Reason wherefore the Sheriff of ancient Time was eligible, for that

Dalton's
Justice of
Peace.

that he had *Custodiam Comitatus*, and principal Conservator of the Peace; and therefore his Authority should not cease by the Death of the King no more than that of the Coroner.

Of the Number of Coroners in each County.

TH E Number of Coroners are not set down by the Law; in some Counties there are four, in some Counties six, in some Counties fewer, and in some but one. 23 H. 8. 25. F. N. B. 163. 14 H. 4. 34. 39 H. 6. 40. Finb. fol. 133. cap. 10. but in twelve Shires in Wales, and in Cheshire there are but two. *Vid. Lamb. Inst. 16. b. Staundf. 48.*

Of the Power and Jurisdiction of Coroners.

TH E Coroner's Power is duplicate, viz.

1. Judicial.

2. Ministerial.

1. The Judicial Authority both of a general and special Coroner is in Case where a Man comes to a violent Death, by Felony or Mischance, and to take the Acknowledgment of Felony, to take the Inquest of Felonies happening within his Liberty, to give Abjurations, and pronounce Judgment upon Outlawries, Appeals of Death by Bill, &c. Solely to take an Indictment *super visum corporis*, and to take and enter an Appeal; but he can proceed no further upon the Indictment or Appeal, but to deliver them over to the Justices; and to enquire of Treasure Trove, and Wreck of the Sea, &c. But if you will enquire more amply what anciently appertained to him, read Bracton, lib. 3. tract. 4. cap. 5. *De Officio Coronatorum circa homicidium*; and cap 26. *De Officio Coronatoris in thesauris inventis*; and cap 6. *De Officio Coronatorum in rapta virginum*; and cap. 1. *De Officio Coronatorum de pace & plaga*; and Britton in his first Chapter, where he treats of it at large: And Flota, lib. 1. cap. 18. But more amply in Staundford's *Pleas of the Crown*, lib. 1. cap. 51.

It is amply expressed in F. N. B. fol. 186. that the Coroner shall carry the Records of his own View, Abjurations, Outlawries, Appeals, Accusations of Thefts done before him, and of all other Things done in the County, that is certain to the Coroner's Office: And also in the Court of Freeman which have Franchises of Infangthes, &c. And in the Presence of the Coroner shall all Appeals of Robbery and Larceny be framed.

The Office of a Coroner.

Now, as to the View of the Body of a Man, it is his Office, that so soon as he shall be certified thereof, to send to the Constable of the Hundred of the Place to summon sufficient and able Men of the Towns adjacent, that at a Day certain they be before him at such a Place; all which done, the Body is to be viewed, and if it be buried, it is to be taken up, and he is to record the Names of those who buried him: And if it hath been decreased or endamaged by ill keeping, or lain so long that it cannot be judged how it came by its Death, the same must also be recorded, that this Negligence may be punished at the coming of the Justices of Assize into the Circuit; for the Town where the Neglect or ill Management was, shall be grievously amerced upon the Sight of the Coroner's Rolls.

2 R. 2. 2.

4 H. 7. 18.

He ought to do his Office in Person, and to see the dead Body when he maketh Inquisition, otherwise the Inquiry is invalid: For if he will inquire of any dead Person without View, this is without Authority and void.

If the Coroner be remiss and negligent in coming to execute his Office, after he is sent unto, he shall be amerced.

Mirror. c. 1.
sett. 13.

But to proceed, if the Coroner, with the Advice of the People present, be able to judge of the Death, then are they to present the Manner of his Killing, whether he died of another's Felony or his own, or by Mischance; and if of Blows, whether of a Staff or a Stone, or any other Weapon; and he is to record in his Rolls the Names of those who were summoned and appeared not, that the same Offences of Disobedience remain not unpunished, whereby the Coroner could not at that Time proceed for Want of Jurors. Therefore we will inquire what Persons may be of the Inquest.

What Persons are to be of the Coroner's Inquest, and how to be qualified.

Cro. 1. part,
f. 75. Sir
William
Witchipole's
Case.

THE Inquisition before Coroners is to be of Persons within the four next adjacent Villages, as appeareth by the Statute of 1 Ed. 1. *De Officio Coronatoris*, and *Cromp. fol. 113.* In these Inquests lie no Exceptions or Challenges to the Persons of the Jurors; but he ought to make his Panels of the discreetest and ablest, and best of them.

In case of
Death an
Inquisition
super vis.
corp. per
Jscr. prob.

The Names of the Jurors ought to be certified, for peradventure they be not *probi & legales homines*, but Villains and Outlaws. 15 H 4. 41. For note, That an Indictment before Coroners which found, that the Earl of B. was *Felo de se*, was

Or leg. hom. where not good. Popk. Rep. fol. 202. Herring against Erington.

qualif'd;

quashed, because it did not appear that it was *per sacramentum proborum & legalium hominum*. Popb. Rep. fol. 202. Harrison against Erington.

And likewise in Hillary Term, 2 Car. Popb. Rep. fol. 209, Popb. Rep. 210. a great Multitude of Welshmen were indicted for the *fol. 209, 210;* Death of a Man by an Inquisition taken before the Coroner in the County of Montgomery in Wales, and Exceptions were taken to the Inquisition: As first, that the Coroner cannot take any Inquisition, unless it be *super visum corporis*; and to this was cited Britton 6 R. 2. Coron. 107. 21 E. 4. 70. 2 R. 3. 2. This is also the Reason, that if a Man drown himself, and cannot be found, the Coroner cannot inquire of the Death of this Man: But for the King to have a Forfeiture of his Goods, an Inquisition ought to be taken before the Justices of the Peace. The second Exception was, That the Inquisition was *per sacramentum proborum & legalium hominum* Com. pred. whereas by the Statute of 4 E. I. this Inquest ought to be by Men of the four next Towns adjoining; and this ought to appear in the Indictment also. Hill. 10. Jas. 2. Co. lib. Intr. fol. 354. 254. and Pash. 3. Car. This Indictment was quash'd for these Exceptions.

The Impanelling of the Inquest, and the View of the Body, and the giving of the Verdict, is commonly in the Street in an open Place, and *in corona populi*; but this Name rather cometh because the Death of every Subject by Violence is accounted to touch the Crown of the Prince, and to be Detriment unto it. The Prince accounting that his Strength, Power and Crown doth consist in the Force of his People, and the Maintenance of them in Security and Tranquillity.

*Smith's
Common-
wealth of
England,
cap. 24.*

The Method of keeping the Coroner's Court.

TH E Coroner's Court is a Court of Record, and holden after this Manner:

When a Coroner cometh to view a Party that hath hanged, Stoundf. 52. killed or drowned himself, or that hath come to his Death by any other Accident, he must make out his Warrant to impanel a Jury, to the Bailiff in whose Liberty the Party lieth dead, to appear before him at such a Day and Place as he shall nominate and appoint. The Form of the Warrant is thus:

The Office of a Coroner.

To the Bailiff, and also to the Constable and Tithing-men of the Hundred of R. in this Behalf jointly and severally, greeting,

Yorkshire.

By Virtue of mine Office, these are in the Name of our Sovereign Lord the King, to will and require you, immediately upon the Receipt and Sight hereof, to summon and warn twenty-four able and sufficient Men to be and appear before me at *Skipton* on the *21st Day of November* next ensuing the Date hereof, at the common *Tolbooth* of the said Town, then and there to do and execute such Things as on his Majesty's Behalf shall be given them in Charge; whereof fail you not, as you, and every of you, will answer the contrary at your Perils. Dated under my Hand and Seal the *10th Day of September*, in the Year of our Lord, *1658.*

*By me G. W. one of the Coroners
of the County aforesaid.*

If it be a City or Corporation, then the Form of the Warrant or Precept is thus:

*City of
Yorke.*

To the Sheriffs of the City of York, and to the Sergeants of Mace, attending the said Sheriff.

These are to will and require you, and in the Name of our Sovereign Lord the King, &c. straitly to charge and command you, that you cause to come before me one of the Coroners of the City of York, and County of the same City, at the House of T. P. in *Figgate* within the said City, between the Hours of one and two of the Clock in the Afternoon of this present first Day of *May*, twenty-four good and lawfull Men of the said City, then and there to enquire upon the View of the Body of *A. B.* there lying dead, how and in what Manner he came to his Death; fail not herein, as you will answer the contrary. Given under my Hand and Seal, the *2d Day of May*, in the Year of our Lord *1658.*

By me J. C. &c.

When you come to the Place appointed call the Bailiff, Constable, &c. to make a Return of their Warrant.

Then command one to make three Proclamations, calling the Jury after this Manner:

You

You good Men that are returned to appear here this present Time to inquire for our Sovereign Lord the King, &c. answer to your Names as you shall be called, every Man at the first Call, upon Pain and Peril that shall fall thereon.

And such of the Jury as fail to appear shall be fined forty Shillings.

The Jury appearing swear fourteen or fifteen of them, and give the Foreman his Oath *super visum corporis*, thus:

You shall diligently enquire and true Presentment make on the Behalf of our Sovereign Lord the King, &c. how and in what Manner A. B. here lying dead, came to his Death; and you shall deliver up to me (his Majesty's Coroner) a true Verdict thereof according to your Evidence: So help you God.

The Oath
of the
Foreman
of the Jury:

You shall diligently inquire, and true Presentment make of such Things as shall be given you in Charge according to your Evidence: So help you God, &c.

Then swear the rest by four at once, thus:

Such Oath as L. M. the Foreman of this Inquest for his Part hath taken, you and every one of you shall well and truly of the rest observe and keep on your Parts: So help you God, &c.

If the Evidence be not ready, you may adjourn until another Day and Place to receive their Evidence, binding the Jury by Recognizance in twenty Pounds a-piece for their Appearance.

of the Jury.

Adjourn.
ment.

Then send out your Warrants to the Witnesses, commanding them to come to be examined before you, and to deliverings their Knowledge touching the Matter in Question, taking their Examinations in Writing under their Hands.

If it be about the Trial of a Man's Life, then must the Witnesses be all bound over in twenty Pounds a-piece at the least, personally to appear at the next Assizes then ensuing, to deliver their Knowledge therein.

The Recognizance must be made in this Manner, viz.

The two and twentieth Day of May, in the Year, &c. A. B. of C. in the aforesaid County, acknowledges himself to owe York, £. and to be indebted, &c. under Condition, &c.

That if the said A. B. do personally appear before the Justices of Assize and Gaol-Delivery, at the next Assizes to be holden at the Castle of Y. for the said County, and then and there deliver, and set forth his Knowledge touching the Death of E. F. and do not depart thence without Licence of the said Court, That then this present Recognizance to be

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void and of none Effect, or else the same to stand, remain, and continue in Force, Strength, Power and Virtue.

Taken and acknowledged the two and twentieth Day of May in the Year 1658, aforesaid, before me R. W. Gent. one of the Coroners of the County aforesaid.

R. W.

Then command three Proclamations to be made thus: If any Man can give Evidence on the Behalf of his Majesty, how and in what Manner A. B. here lying dead came to his Death, draw near and you shall be heard.

Evidence appearing, give him or them this Oath:

All such Evidence as you shall give to this Inquest, concerning the Death of A. B. here lying dead, shall be the Truth, the whole Truth, and nothing but the Truth: So help you God, &c.

The Jury being all sworn, command them to stand together and hear their Charge, the which I shall give you in brief.

Gentlemen,
Coroner's
Charge to
the Jury.

1. You that are sworn, you by your Oaths are to enquire of the Death of this Man, whether he died of Felony or by Mischance; and if of Felony, whether of his own or of another's; and if by Mischance, whether by the Act of God, Man; and if of Famine, whether of Poverty or Common Pestilence; and from whence he came, and who he was; and if he died of another's Felony, who were Principals, and who Accessories, and if Hue and Cry were duly made or not, and whether the Men fled according to Law or not, and who threatned him of his Life or Members, and who were Sureties of the Peace: Or whether he died of long Imprisonment or of Pain, and by whom he was further from Life, and nearer to his Death; and so of all prevailing Circumstances that can come by Presumptions.

2. And in case he died by Hurt or Fall, or other Chance by the Act of God; so that he had no Power to speak before his Death; then you shall inquire the Names of the Finders, and of his next Neighbours, and who were his Parents, and if he were killed there, or elsewhere; and if elsewhere, by whom, and how he was thence brought; and the Value and Kind of the Deodand, and to whose Hand it came; for whatsoever is the Cause of his Death is Deodand, as Horse, Cart, Millstone; also Vessels are sometime Deodands, but not in the Sea; according to the Maxim, *Omnis qua maverit ad mortem just Deodands,*

What are
Deodands,
and what
are not.

dands ; but the Sums upon the Horse, the Goods lying in Ships, Mills, Carts and Houses are not accounted for Deodands.

3. And in case of another's Felony, then you are to enquire who are the Felons, in what Hundred, Pledge, Dosein, Ward or Mainprize they were, and from whence they came, and where they returned.

4. And if he was killed by false Judgment, then you are to enquire who were the Judges, who the Officers to form the Judgment, and who Accessaries ; and if false Witnesses, who they were, and the Jurors.

5. And if he died of his own Felony, then that you enquire the Manner, and the Value of his Goods, and the Name of his Parents and the Finders, and of the Neighbours, and the Value of the Wastre.

Note, That you are also to enquire of the Accessaries, and they are eight in Number, viz.

1. Those who command.
2. Those who conceal.
3. Those who allow and consent.
4. Those who see and could prevent it.
5. Those who help and are in the Force.
6. Those who are Partners in the Gain.
7. Those who knew thereof, and did not interrupt or hinder it by forbidding.
8. Those who knowingly receive such Offenders.

All which you are to enquire of. And you must know, that if one Man wilfully kill another, or if a Man kill or drown himself, the first doth forfeit by that Fact both his Lands and his Goods, and the other forfeits Goods and Chattels, and no Lands. And if any Homicide happen to be wilful Murder, which Offence cannot be too severely punished, therefore by the Law the Offender herein ought to lose both Life, Lands and Goods. And if it be found Manslaughter, if the Offender can read, then he may in favour of his Life, by the King's Mercy, have the Benefit of his Clergy, and so save his Life, but he shall forfeit both his Lands and Goods. The Goods must be found, apprised and valued, of such Offenders, and left in the Town or Village where such Offender dwelleth, by them safely to be kept, until the Offender be acquitted or convicted by due Course of Law ; the interim, the Offender must be maintained with his Goods, so as he may be kept alive to answer his Fact, and what shall remain when he is convicted, those to whom such Goods do belong by the Law must have them, and not before, and thereof discharge the Town or Village which had the Custody of such Goods. And as for the Offender's Free Land, if he

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have any, immediately after Conviction, his Majesty must have annum, diem & vasum therein; and after, the Lord of whom it is holden, shall have it as an Escheat.

Thus having in brief declared these Things incident to my Office, and to you to enquire of, I will conclude. Therefore stand together, and hear your Evidence.

2. His Ministerial Power.

14 H. 7. 31.

4 H. 7. 3.

Pl. Com.

When the Sheriff is Plaintiff in an Action of Waste, the Estrepe-
ment shall go to the Coroners.
He may take posse Comitatus.

WE now come to his Ministerial Power, whereip he hath Authority as a Sheriff, &c that is, when there is just Exception taken to the Sheriff, Judicial Process shall be awarded to the Coroner for the Execution of the King's Writs, in which Cases he is *lecum tenens vicecomitis*, and in some special Cases the King's Original Writ shall be immediately directed unto him.

Estrepe-ment Judicial was awarded out of the Court to the Coroners of the County of Westmorland, in an Action of Waste, brought by the Earl of Cumberland against the Countess Dowager, because the Earl was Sheriff of the same Shire, by which Writ the Coroners were commanded to suffer no Waste to be done in the Lands, &c. And it was then said, that the Coroner may provide against Waste, by taking *Posse Comitatus*. Hob. fol. 85. Cumberland's Case.

Of the Coroner's Fees.

TH E Statute of 1 H. 8. c. 7. prohibiteth a Coroner from taking any Thing for doing his Office, upon Pain for every Default forty Shillings; the like Penalty where he giveth not his Attendance when he is required to make Inquisition upon the Death of any dead Corps, &c.

Fitz. tit.
Coron. fol.
321. & 371.

Fitz. tit. Coron. fol. 321, & 371. A Coroner hath a Fee appertains to his Office, viz. of every *Vise* one Penny, when they appear before the Justices of Assize, which Fee he receives not to do his Office, but as a Right due to him, though he execute no Part of his Office.

3 H. 7.

By 5 H. 7. he is to have (upon an Indictment found of Murder) thirteen Shillings and four Pence of the Goods of the Murderer, and if he hath nothing, then of the Amerciament of the Township for the Escape, &c. Mirror, cap. 1. Office of the Coron. Fleta, lib. 1. cap. 18. Staundf. Pleas of the Crown, fol. 48, 49, 50.

Of Appeals.

Appel hath its Origine or Etymology of the French Word *Appeller*, signifying to accuse or impeach ; it is an Accusation ; or of *Appeller* to call, because *Appellans vocat reum in judicium*, he calleth the Defendant into Judgment. *Co. super Litt. 2. lib. 2. cap. 11. Sect. 189. & lib. 3. cap. 8. Sect. 500.*

Appeals are triplicate, viz.

1. Of Wrong to his Ancestor, whose Heir Male he is, and that is only of Death.

2. Of Wrong to the Husband, and is by the Wife only of the Death of her Husband, to be prosecuted whilst she is a Widow ; for if a Woman who hath Title of an Appeal of the Death of her Husband, takes another Husband ; he and the Wife shall not have an Appeal ; for the Woman ought to have it sole : For the Cause of an Appeal is, that she is indigent of her Husband ; and the Reason is, because the Wife wanting a Husband, is not so well able to live, and therefore when she hath another Husband the Appeal is determined : For *cuncte causa cessat effectum*, the Cause ceasing, the Effect ceaseth. (*Br. Appeal 109.*) As where a Woman hath a Quarantine, and she marries within the forty Days, she loses her Quarantine. *I Mar. I. Br. Appeal, 109. Dover 101.*

3. Of Wrongs done to the Appellants themselves, as Robbery, Rape and Maim.

There shall none of the Blood make Appeal, but the next Heir of the Blood, that should have the Heritage by Law after the Death of him that was slain.

If a Man be slain having a Wife, his Wife shall be admitted to make Appeal within a Year and Day ; if she begin the Appeal but two Days before the Year be past, it is as good as if it had been at the beginning of the Year.

If the Wife begin not her Appeal within a Year and a Day after the Death of her Husband, she shall never afterwards be received to make an Appeal.

The Heir of a Man killed shall have Appeal as well of Homicide of his Ancestors, as of Murder. *2 E. 6. Br. Appeal 122.*

If he that is attainted of Treason or Felony be slain by one that hath no Authority, in this Case his eldest Son can have no Appeal ; for he must bring his Appeal as Heir ; which being *ex provisione hominis*, he loseth it by the Attalinder of his Father, but his Wife shall have an Appeal ; because she is to have an Appeal as Wife, which she remaineth, notwithstanding the Attalinder, because *Maris & feminis conjunctio est de jure naturae*, and therefore is indissoluble.

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An Appeal of Maihem is in a Manner but a Trespass, for he shall recover but Damages, yet the Indictment shall say, *quod felonice maihemavit.*

The Coroner receiveth at the County Appeals of Robbery and Appeals of Death, whether it be for the Wife of him that is dead, or for his Heir; which Appeal may be made at the County within a Year and a Day after the Fact committed: That is, within a Year and a Day after the Stroke, and not the Death. *S. undf. Co. 4 Rep. Cases of Appeals and Indict.*

If a Man make Appeal at the County, it behoves him to be at the County in proper Person to make his Appeal, and he must find Sureties at the same County to pursue his Appeal, and he shall have a Day to the next County to pursue his Appeal; and if the Plaintiff fail at the County of his Appearance in proper Person, the Appeal is abated.

If a Man make an Appeal, and be nonsuit in his Appeal, he shall never be received to make his Appeal afterwards.

Note.

Note, That an Appeal of Death may be commenced before the Coroner, and Proces awarded to the Exigent; but the Plea shall not be determined before him. *Br. Appeal 62. the End. Coron. 82.*

The Sheriff
shall have
Counter-
Rulls of
Appeals,
&c.

W. 3m. I. cap. 10. The Sheriff shall have Counter-Rolls with the Coroners, as well of their Appeals, as of Inquests of Attachments, and of other Things which to that Office appertains.

An Appeal of Murder by the Wife of him that was slain.

A. B. nuper uxor C. D. in propria persona sua instanter appellat E. F. nuper de S. in Comitatu Ebor. Gen. in cuius dia H. R. Vic. Comitatus præd. Et ad Barram ducit. in propria persona sua de morte præd. C. B. nuper viri sui de eo quod idem C. B. nuper vir ejus 10 die Maii, anno, &c. fuit in pace Dei & dicti Dom. Regis operans & laborans in lapidibus calcarii, (anglice Lime-stones) effodiend. in terra T. W. Arnig. in quodam loco ibidem vocat. (a Stone-delph vel Pit) apud S. in Comitatu prædictio, ubi ven. prædictus E. F. ut Felo dicti Domini Regis, & de insultu & militia præcogitata in eundem C. B. 10 die Maii, anno, &c. supradicti. circa horam septimam ante meridiem ejusdem diei, vii & armis, viz. baculis, cultellis, gladiis, &c. apud S. prædictam, in pred. loco felonice insult. fec. & eundem C. B. adiunc & ibidem felonice & voluntarie interfecit & murdravit, & eundem C. B. sic interfecit. ab inde incontinenter asportavit. in quandam angulam ejusdem le Stone-Delph vel Pit, & cum lapidibus calcarii adiunc & ibidem jacen. in dicto le Delph vel Pit abscondit in parochia de S. in Comitatu præd. contra pacem dicti Domini Regis Coron. & dignitatem suas: Et quam cito idem felo feloniam & murdrum præd. fecisset fugit, & præd. A. B. ipsum

ipsum recente insecto, fuit de villa in villam usque quatuor vill. propinquiores & ulterius quoisque, &c. Et si præd. E. T. feloniam & murdrum præd. in forma præd. fact. dedicere velit, sans prædicti. A. B. parat. est Felon. & Murdr. præd. versus eum probare prout Cur. hic, &c. Et inven. pleg. de prosequend. appell. illud, viz. J. D. & R. R. &c.

If the Appeal be by the Heir of the Person murdered, then thus:

A B. proxim. de sanguine & filium & bares C. D. in propria persona sua instanter appellat. E. F. nuper de S. in Comitatu Eboracensi Gen. & G. H. nuper de R. in Comitatu prædicto armiger. in custodia H. B. Vic. Com. prædicti, & ad Barram duct. in propria persona sua de morte prædicti C. D. nuper patris ejus de eo quod ubi idem C. D. die, &c. anno, &c.

An Appeal of Maihem.

A B. in propria persona sua appellat R. L. de D. in Comitatu Ebor. Armig. de eo quod ubi idem A. B. fuit in pace Dei & Domini Regis nunc apud C. in Comitatu prædicto die & anno, &c. idem R. L. ven. & in eundem A. B. ex malitia sua præcogitat. insult. fecit & armat. in tali modo manum dextram ipsius A. B. amputau. (vel tali baculo super caput ejus percussit, unde penetravit caput ejus) vel lapide tres incisorum expungit, per quod ipsum felonice maibemavit, & quam cito, &c. Et si, &c. idem A. B. hoc parat. est versus eum probare, prout Cur. &c.

Of Wounding, thus:

A B. in propria persona sua &c. de eo quod ubi præd. C. D. &c. eundem A. B. tali celo ip'um percussit & ipsum in tali parte corporis sui vulneravit, quod quidem vulnus continet tantum in longitudine, tantum latitudine, & tantum profunditate; Et hanc plagan felonice dedit, & quam cito, &c. Et si, &c. idem A. B. hoc paratus est versus eum probare prout Cur. &c.

An Inquisition of Murder.

Midd. ff. **I**nquisitio indentat. capt. apud Parochiam de S. in Comitatu Middlesex xxv die Marcii, anno, &c. coram T. E. Gen. un. Coronatorum Comitatus præd. super viatum corporis ejusdem W. F. adtunc & ibidem mortui jacen. p'r sacrum J. W. R. W. H. P. J. A. J. B. L. S. M. L. J. K. S. B. W. H. R. G. & N. S.

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proborum & legalium hominum Paroch. pred. & quatuor claram Villarum in Comitatu prediclo eidem parochia prox. adjungen. jurat. triat. & onerat. ad inquirend. ex parte dicti Dom. Reg. qualiter & quomodo predictus W. F. ad mortem suam devenit super sacrum suum dicunt quod predictus E. L. nuper de Parochia de S. predicta in Comitatu prediclo Labourer, xix die Marcii Anno, &c. pred. timorem Dei pra oculis suis non habens, sed instigatione Diabolica morus & seduct. vi dñi armis, &c. apud Parochiam predictam in Comitatu prediclo, in & super dicti W. F. in pace Dei & dicti Domini Regis existent. adiunc & ibidem felonice insult. fecit. Et quod pred. E. L. eundem W. E. adiunc & ibidem in terram dejectis & precipitavit; Et prafat. E. L. cum manu sinistra & ambobus pedibus ipsius E. L. predictum W. E. (sic ut prafertur in terram prostrat.) in & super petrum suum cum manib[us] & pedibus suis felonice percussus, verberavit & encervit: Et idem W. F. adiunc & ibidem cum manu sinistra & ambobus pedibus ipsius E. L. in & super petrum ejusdem W. F. dedit unam contusionem mortalem, longitudinis sex pollicium, & latitudinis quatuor pollicium, de qua quidem contusione mortal. predictus W. F. adiunc & ibidem instanter languebat & languidus vixit, a dicto xix die Marcii, anno, &c. usque xx diem dicti mensis Martii, tunc prox. sequen. quo die pred. W. F. apud Parochiam pred. in Comitatu pred. en contusione mortal. pred. obiit: Et sic Juratores pred. super sacrum suum pred. dicunt quod pred. E. L. pred. W. F. felonice interfecit & mordravit, modo & forma predictis contra pacem dicti Domini Regis, Coron. & Dignitat. suas; Et que bona & catalla predictus E. L. habuit tempore felonie pred. modo & forma predicta per ipsum fact. & commiss. iidem Jurator. penitus ignorant.

In cuius rei Testimoniam tam ego prafat. Coron. quam Jurator. pred. huic Inquisic. Sigilla nostra alter-natim apposuimus, die anno & loco supradicti.

An Inquisition for Manslaughter, where one was starved and perished for Want of Sustenance.

Midd. S. Inquisitio indent. capt. apud Hampstead in Comitatu Middlesex xx die Decembris anno, &c. coram J. G. Gen. un. Coronator. ejusdem Domini Regis Comitatus pred. super visum corporis W. T. adiunc & ibidem mortui jacen. per sacrum R. H. W. P. T. E. M. W. J. M. N. D. A. P. P. B. R. B. R. C. J. B. E. F. J. W. J. C. J. H. D. C. J. S. & J. M. proborum & legalium hominum de Hampstead pred. & de quatuor al. Will. in Comitatu pred. Villa de Hampstead pred. proxim. adjungen. qui onerat. & jurat. ad inquirend. qualiter quando & quomodo pred. W. T. ad mortem suam devenit super sacrum suum dicunt quod J. B. de W. in Com. pred. T. & S. uxor. ejus, Deum pra oculis suis non habent. sed infestatione

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investigatione Diaboli mot. & seduct. xx die Novembris, anno, &c.
supradicti vi & armis, &c. apud W. pred. in Com. pred. in &
super eundem W. T. adiuncti apprentice. iphus J. B. in pace Dei & dicti
Dominii Regis adiuncti existent, felonice, voluntarie & ex malitia sua
precogitata insulto fecer. & quod ipsa predicta S. adiuncte scilicet pre-
dicto xx die Novembris, anno pred. & diversis aliis diebus & tempo-
ribus, tam antea quam posset apud W. pred. in Com. pred. felonice,
voluntarie, & ex malitia sua precogitata detinuit & detraxit ab eo-
dem W. T. & eidem W. T. non exhibuit & dedit bon. & sufficien-
timente. vix. omitt. lecturam, medicin. ac al. necessaria intentione
prefat. W. T. per indigenc. inde miserabiliter langueret, interiret,
& moriretur, de quibus quidem detentione & subtractione aliment.
a prefat. W. T. non exhibitione & allocatione eidem W. T. bon.
& sufficien. aliment. vix. omitt. lecturam, medicin. ac al. necessar.
per eundem S. pred. W. T. a predicto xx die Novembris, anno pre-
dicto usque xv diem Decembris tunc prox. sequen. anno pred. apud W.
pred. in Com. pred. miserabilit. languebat & languescens miserabilit.
vivebat super quem quidem xv diem Decembris anno predicto pred.
W. T. pro defectu bon. & sufficien. aliment. vix. omitt. lectur. me-
dicin. & al. necessar. apud W. pred. in Com. pred. miserabiliter in-
teriebat & moriebatur: Et quod pred. J. B. simulacrum pred. S.
uxor. ejus tempore felon. & murdr. pred. per pred. S. modo & forma
pred. fact. & commiss. felonice & voluntarie & ex malitia sua precogi-
tat. fuit presens, obstens, abberans, procur. confort. & maquinens.
prefat. S. pred. W. T. modo & forma pred. interficere & mordicare:
Et sic Jurato. pred. dicunt super sacrum earum pred. quod ipsi pred.
J. B. & S. uxor ejus pred. W. T. modo & forma pred. felonice, vo-
luntarie, & ex malitia sua precogitata interficer. & mordicare.
contra pacem dicti Domini Regis Coron. & Dignitat. suas. &c. Et
sic predictus W. T. ad mortem suam devenit & non aliter, neque ullo
al. modo praterquam sicut supradicitur. Sed que bona & catalla,
terras sive tenementa, prefat. J. B. & S. uxor ejus tempore felon. &
murdr. pred. per pred. J. B. & S. uxor. ejus modo & forma pred.
fact. & commiss. seu ullo alio tempore posset (usque caption. ipsius Inqui-
sition.) babuer. iudicem Juratores penitus ignorant. In cuius rei estimo-
nium, &c.

Inquisition where one is slain by Misfortune by a Cart loaden with Hay.

Midd. sc. I Inquisitio indec. cap. apud, &c. Qui dicunt super
sacrum suum, quod pred. A. B. 10 die Maii, anno
&c. pred. apud S. pred. in Com. pred. eundo cum caruca sua o S.
pred. usque L. in dict. Com. per viam inter S. & L. pred. scilicet apud,
&c. pred. in Com. pred. caruca sua pred. feno onerata, anglice (his
said Cart loaded with Hay) cecidit super corpus pred. A. B. &
iis quassavit & fregit carpus suum quod de quassatione & fracture
ejusdem

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ejusdem pred. A. B. adiunq. Et ibidem instanter obiit. Et sic Juratores pred. super sacrum suum pred. dicunt quod pred. A. B. modo Et forma pred. per infortunium ad mortem suam devenit. Et ulti. Jurat. pred. super sacrum suum pred. dic. quod adiunq. Et ibidem quatuor equum carucam pred. Et onere feni continens pondere per estimationem quadraginta pondera, anglice (Stone-weight) moverunt ad mortem pred. A. B. Et quod pred. quatuor equi sunt pretii octo librarum Et decem solid. Et quod pred. carucam est valoris 20 s. Et quod pred. Carucam remanet in Custodia C. D. de S. pred. scilicet super ux. pred. A. B. Et quod pred. 10 pond. feni. anglice (the aforesaid 10 Stone of Hay) sunt valoris 14 s. Et octo denar. Et remanent in custod. D. F. de S. pred. gen. In cuius rei testimonium, tam Coron. quam Juratores, &c.

Another, where one by Misfortune is slain by the Fall of a Scaffold.

Midd. si. Inquisitio indentas. capi. apud. &c. Qui dicunt super sacrum eorum pred. P. H. xxv die Augusti, anno &c. pred. apud K. in Com. pred. quoddam tabulatum de quodam ligno voc. (Deales) Et sudibus abiegnis, anglice (Firrpoles) fact. ad domum J. B. situat. Et existen. apud K. pred. erexit ad dominum pred. imbricand. Et E. W. M. C. filiam W. G. infantem in brachis suis haben. Et ambuland. in via publica per eandem dominum Et pred. P. H. adiunq. Et ibidem super idem tabulatum sol. laborand. Et pred. tabulat. putrido maestrem fac. un. Sudum abiegnarum, anglice (One of the Firrpoles) tabulat. pred. supportans, fregit, ita quod tabulat. pred. super caput ejusdem M. C. cecidit, Et cavariam capitis ipsius M. C. aliquant. supra aurem sinistram ipsius M. C. adiunq. Et ibidem capitaller contusit Et fregit longitudinis duor. pollicium, Et latitudinis unius pollicis: de qua quidem mortali contusione Et fractione pred. M. C. instant. languebat Et longaide wixit a pred. xxv Augusti, anno pred. usque xxvii diem ejusdem mensis Augusti, super quem quidem xxvii diem Augusti, anno pred. prefat. M. C. apud L. pred. in Com. pred. de contusione Et fractione mortali pred. morlebarur. Et sic Juratores pred. super sacramentum eorum pred. dicunt quod pred. H.P. pred. M. C. per infortunium occidit Et interfecit Et contra voluntatem ejus, modo Et forma pred. Et qua bona Et catalla pred. P. H. tempore homicid. per infortunium habuit, modo Et forma pred. per ips. commiss. Et perpetrata: contra voluntatem ejus, Juratoribus penitus insognit. existit. In cuius rei testimonium, &c.

An Inquisition where one drowns himself.

Midd. ff. **I**nquisitio indentat. capt. &c. qui dicunt super sacramen- **P**olo de sa-
tum suum, quod præd. A. B. 2 die Maii, anno, &c.
præd. circa horam oct. ante meridiem ejusdem diei, Deum præceuis
suis non habens, sed instigatione Diabolica seduct. & mot. ex malitia
sua præcogitata, apud M. præd. in Com. præd. adtunc & ibidem sol.
existen. in communi rivulo ibidem seipsum voluntarie & felonice sub-
mergit. Et sic Jurat. præd. super sacramentum suum præd. dis. quod
præd. A. B. modo & forma præd. adtunc & ibidem voluntarie & fe-
lonice, ut felo de seip. occidit & murdravit contra pacem, &c.
In cujus rei testimonium tam coron. præd. quam dict. Jurat. &c.

If one hang himself, then the Inquisition thus:

Midd. ff. **I**nquisitio indentat, &c. (the Hour, &c.) Deum pre-
oculis suis non habens, sed instigatione Diabolica seduct.
& mot. apud S. præd. in quodam bosco sive nemore eidem S. adjungen.
adtunc & ibidem sol. existen. cum uno fune canabato valoris unius
Denarii, quem ipse adtunc & ibidem in manibus suis habuit & tenuit,
& unum finem inde circa collum suum adtunc & ibidem posuit, & al-
terum finem inde circa ramum ejusdam arboris Querci ligavit, &
seipsum adtunc & ibidem cum fune predicto voluntarie & felonice
suspendit & suffocabat, & sic Juratores præd. super sacramentum suum
præd. dicunt, quod ipsa F. adtunc & ibidem seipsum modo & forma
præd. ut felo de se felonice voluntarie & ex malitia sua præcogitata
interfecit strangulabat & murdravit.

No For-
feiture of
Lands.

Inquisition for Murder by the Husband.

Inquisitio indentat. capt. apud S. in Com. Ebor. (die, &c) coram
T. W. generoso uno Coronator. Dom. Regis infra libertatem Der-
cani & Capituli Ecclesie Cathedralis & Metropolit. Sancti Petri
Ebor. super visum corporis Anna uxoris W. R. de Strensal in Com.
Ebor. ac infra libertatem præd. ibidem mortui jacen. per Sacramentum,
&c. proborum & legalium hominum jurat. ad inquirend. qualiter &
quomodo præd. Anna ad mortem suam devenit qui super Sacramentum
suum dicunt quod W. R. nuper de Strensal præd. in Com. Ebor. præd.
Deum pre oculis non habens nec christiane pietatis fru' amoris conjugis
considerationem habens, sed diabolice & maliciose machinans &
intendens præd. Annam uxorem suam de vita sua felonice & prod.
penitus deprivare apud Strensal præd. ac infra libertatem præd. & in
Com. Ebor. (die & anno) ea intentione ut nequissima & Diabolica pro-
posita sua efficere potuisse tres ictus, anglice (Blows) cum manu sua
super caput præd. Anna dedit & cum ictibus illis cum manu sua adtunc
&

& ibidem felonice interfecit prout idem W. R. confessus est. In cuius rei testimoniam, &c.

Inquisition upon one falling from his Horse, and the Horse striking.

Inquisitio, &c. qui super Sacramentum suum dicunt quod A. C. (die 20 anni) apud Dunnington in Com. præd. equitans super quendam spadonem ipsum A. C. idem A. C. a tergo spadonis præd. adiungens ibidem ad terram casualiter occidit ac spado præd. adiungens ibidem super corpus ditti A. C. occidit & adiungens ibidem dedit eisdem A. C. unam plagam mortalem de qua quidem plaga mortali præd. A. C. apud D. præd. in Com. præd. languebat & languidus vixit a præd (die) anno supradicto usque ad decimum diem Februarii, tunc prox. sequen. quo quidem decimo die Februarii anno supradicto præd. A. C. apud D. præd. in Com. præd. de plaga mortali præd. obiit. Et sic Juratores præd. super Sacramentum suum præd. dicunt quod præd. A. C. modo & forma præd. & non aliter ad mortem suam venit. Et Juratores præd. ultraius dicunt quod spado præd. apprehensus ad centum solidos & remaneat in custodia G. H. de D. præd. Yeoman. In cuius rei testimoniam Coronarii præd. quam Juratores præd. huius inquisitionis sigilla sua apposuerunt die anno & loco superiori primo mentionatis. &c.

Inquisition where one dies in Gaol.

Inquisitio, &c. quod præd. T. G. dicit captionis hujus inquisitionis existent. prisonar. in Gaol. Dom. Regis Castri sui Ebor. in Com. Ebor. adiungens ibidem ex visitatione Dei obiit & adiungens ibidem modo & forma præd. ad mortem suam venit & non aliter. In cuius rei, &c.

Inquisition where one falls from his Horse, and is drowned in the Ditch.

Inquisitio, &c. quod H. W. quinto die Martii anno, &c. in nocte ejusdem dìi equitans super quendam Spadonem apud Sutton en Com. Ebor. prop. unam fossam vocat. F. aqua & luto implet. iugè idem H. W. adiungens ibidem a spadone præd. in fossam præd. casualiter occidit & in fossa præd. adiungens ibidem immersus & suffocatus fuit & adiungens ibidem instanter obiit. Et sic Juratores præd. dicunt quod præd. H. W. ad mortem suam præd. modo & forma præd. apud S. præd. in Com. predicta per insursum venit, &c.

Inquisitio per infortunium, where two were playing with Swords.

Inquisitio indentat capi. apud Tollerton in Com. Ebor. coram T. F. uno coronatorum Domini Regis in Com. præd. quinto die M. anno &c. super visum corporis enjusdam A. M. nuper de T. præd. in Com. præd. Labourer, ibidem mortui jasen. per Sacramentum W. F. &c. proborum & legatum hominum Com. præd. de quatuor villis villa de T. præd. prox. adjacen. impanellat. jurat. & onerat. ad inquirend. qualit. & quomodo præd. A. B. ad mortuū suam venit. Qui dicunt super Sacramentum suum præd. quod præd. A. M. & quidam B. D. existens milites & vigilantes in nocte apud T. præd. quarto die M. anno supradicto. Et iudicentes cum gladiis suis districcis ita accidit quod præd. B. D. eundem A. M. casualit. & contra voluntatem suam vulnerabat super tibiam suam dextram & adtunc & ibidem dedit eidem A. M. unam plagam mortalem (et latitudinem) de qua quidem plaga mortali præd. A. M. apud T. præd. in Com. prædicto languebat & languidus vixit (a toli die usque talem diem) quo quidem xx die M. anno supradicto præd. A. M. de plaga mortali præd. obiit. Et sic Juratores præd. dicunt super Sacramentum suum præd. quod præd. B. D. eundem A. M. apud T. præd. in Com. præd. modo & forma præd. per infortunium & contra voluntatem suam interfecit. Et quod gladius præd. disti. A. M. removet in custodia A. B. Et quod præd. A. M. modo & forma præd. & non alii. ad mortem suam venit. In cuius rei testimonium, &c.

Inquisition of Murder by bruising, against three, one fled, and had Goods and Land, another had none.

Inquisitio, &c. quod R. B. nuper de D. in Com. præd. Yeoman, C. D. nuper de D. in Com. prædicto, Yeoman, & W. B. nuper de D. in Com. præd. Yeoman, (die & anno) apud R. in Com. Ebor. præd. in & super quendam J. N. in pace Dei & dicti Domini Regis tunc existens felonice voluntarie & ex malitiis suis præcigitat. insult. fecerunt & ipsum J. N. adtunc & ibidem super terram felonice & voluntarie dejecerunt. Et quod præd. R. cum manibus & genibus suis ipsum J. N. in & super corpus suum adtunc & ibidem felonice consudebat, deprimebat & percutebat, anglie (did crush, bruise and strike.) Et quod præd. W. B. adtunc & ibidem cum manibus & genibus suis ipsum J. N. in & super corpus suum adtunc & ibidem felonice

rice percutitbat contundebat & deprimebat, de quibus quidem contusione
nibus depressionibus & percusionibus idem J. N. apud S. pred. in Com.
pred. languebat. Et languidus rixit a pred. quarto die Octobris anno
supradicto usque ad octavum diem ejusdem mensis Octobris anno
supradicto quo quidem octave die Octobris anno supradicto pred. J. N.
apud S. pred. in Comitatu predicto de contusionibus & depressioni-
bus pred. obiit. Et sic pred. R. B. C. D. & W. B. eundem
J. N. apud S. pred. in Com. predicto modo ex forma predicti filiorum
volumatice ex anima malitia sua precepto, interfecit. Et mordaces
castra pacem dicitur Domini Regis nunc sicut. Ut dignitas: sicut Et
quod pred. R. B. post solitam ex mord. pred. in forma pred. fact.
scilicet eodem viii die Octobris anno supradicto apud T. in Com.
pred. fugam fecit. Et hoc pred. super sacramentum suum pred. ulte-
riori die eius, quid modis ex forma pred. predictio sa. N. ad mortem suam
venit. Non aliter. Et quod pred. W. B. tempore felonie & mord.
pred. ex forma pred. usq. habuit separatio bona Et caro et in sebe
dala habe inquisitiōne amicar. mentionat ad valorem 50 l. ac se-
stros suis in dominio suo ut de scro de S. in duabus bordis leprosa
in T. in Com. Ebor. annualis valoris 50 l. Et quod pred. C. D. vi-
pago felonie ex mord. pred. in forma predicta fact. habuit separatio
bona Et caro et in sebe dala habe in sebe dala inquisitiōne amicar. mentionat ad va-
lorem 10 l. quo quidem superlatio bona Et caro remanent in sebe
A. B. constabularis villa de S. pred. quodque pred. R. B. tempore
felonie Et mordet pred. fact. nulla habuit bona seu caro et in sebe
W. B. de C. D. nulla habuer. aliquis alter seu plura bona aut caro
terris aut tenementis in Com. Ebor. aut alibi prout juri pred. ad hos
presentes a quo mordet coligatur potest. In unius rei testimonium, etc.

Inquisition, where one falls against a Wain and
is slain.

I Nquisitio, &c. quod pred. A. B. (die & anno) apud T. in Com.
Ebor ambulans prope quoddam plaustrum, anglice (a Wain) incu-
bit seipsum, anglice (did rest himself) super axem plaustrum pred.
Et ita seddit, quod ipsa pred. A. B. ad eum ibidem casuaria verfus
coram fecit. Et ad eum ibidem faciam suam percussit super rotam
plaustrum. Et ad hunc et ibidem casu & percussione pred. recepit unam pla-
gam mortalem super faciem suam de qua (quidem plaga mortali) idem
A. B. ad hunc et ibidem instanter obiit. Et sic Juratores, &c.

Inquisition, where one falls from his Horse into the Water.

Inquisitio, &c. quod præd. E. F. primo die 3. anno, &c. apud Brotherton in Com. præd. equitans super quendam spadonem per Trans quendam aquam ibidem vocat. M. adiunct & ibidem casualiter cecidit à spadone præd. in aquam præd. & in eadem aqua adiunct & ibidem immersus fuit & instanter obiit. Et sic Juratores præd. dicunt quod præd. E. F. modo & forma præd. per infortunium & non aliter ad mortem suam devenit prout ad Juratores præd. ad hoc presens aliquo modo constare potest. Et quod spado præd. ad moriem prefati E. F. movebat & idem spado appreciatur ad septem libras & remanet in custodia W. S. de H. in Com. præd. Labourez. In cuius dei testimonium, &c.

X 2

Sheriff's

Sheriff's TOURN, AND Court - Leet.

Of the Original or Institution of them.

Time of its
Institution.

Lamb.
E. 4. c. 4.

Derivation
of the
Word.

Britton.
E. 29. & 64.

View of
Frank-
pledge.

Flet. lib. 2.
c. 60.

The She-
riff has two
Courts.

KING Alfred, in the Year 872, was the first Institutor of this Court which we now treat of, then called *Sciregnot*, that is to say, the Assembly of the Shire, Sheriff's Tourn, and sometimes called the Sheriff's Moot. It seems to have Appellation of Sheriff's Tourn of the French Word *Tour*, viz. *ambitus*, *circitus*, *viciitudo*, and is by Britton styled *Tour*, cap. 16. *sub fine capituli*; as if he should say, the Sheriff's Course or Perambulation: For (as Britton noteth in his 29th Chapter) that which before the Sheriff is called the Sheriff's Tourn, is called in the Court of Franchises and Hundreds, the View of Frank-pledge: Wherein Inquiry is specially made of such as be not in *Dozin*, with whom *Fleta* accords. And by *Fleta* it appeareth, that this Tourn was the Sheriff's Course to keep his Tourn in every Hundred. *I. 2. c. 52. Habet etiam Rex cur- suam in turnis, videlicet in vicibus, &c.* And in many Books 'tis called the King's Leet, and the Sheriff's Leet. *Bro. 24 & 23.* Two Courts were assigned to the Sheriff by the said Alfred; by which two Courts the whole County was governed, viz. the County or Shire-Court, for one Man to have Remedy against another, in any Matter arising between them under

der forty Shillings, and the Sheriff's Town, unto which every Man within the County above the Age of twelve Years, and under sixty, are compelled to come, that they might not be ignorant of the Things there published (or given in Charge) whereby they are to be governed; and this was called *Suit real*, by reason of their Allegiance; unto which they were sworn to be true and loyal to the King. And it was learnedly spoken by a Reverend Judge, Justice *Flemming*, in a Speech of his concerning the Necessity of Sheriffs Tourns and Law-days, who said that it was *Schola insigniendi juvenes*, a School to direct and instruct young Men in the ancient Laws of the Commonwealth, and to prepare them for greater Employment at more great Conventions, at the Assize, Gaol-Delivery, or Sessions of the Peace.

Suit real?
what it is.

Now because the People did undergo great Trouble and Vexation in travelling to the Sheriff's Town, Leets, or View first granted of Frank-pledge were granted to the Lords of Manors within certain Precincts; yet this Court, in whose Manor soever it is kept, is accounted the King's Court, because the Authority is originally appurtenant to the Crown, and thence derived to inferior Persons. And *Dyer* saith, That this Court was first derived from the Sheriff's Town. And 'tis for this Cause that in most Leets there is at the holding the Leet a certain Sum of Money paid to the Lord of the Leet, which is called by various Names, viz. *Capitagium*, King's Silver, Common Fine, &c.

Kitch. f. 6.
Dyer f. 64.
C. 33.
Ter. of Law.
Co. L. 4. 33.

This Court is a Court of Record in all Things that appertain to the Town or Leet, and the Sheriff of the Town, or Steward of the Leet, are therein Judges of Record. For whosoever hath the Leet, hath the same Authority within the Precinct, as the Sheriff hath within the Town.

Capita-
gium,
Common
Fine, &c.

A Court of
Record.

Of the Power and Authority of the Judge of the Court.

THE Steward or Judge hath a double Power and Authority in the Court.

1. Election of Officers.
2. Correction or Punitio[n] of Offenders.

In that of Punitio[n], a double Act is to be respected.

1. *Actus Curia*, the Act of the Court.
2. *Actus Patria*, the Act of the County, or Jury.

Sheriff's Court,

The Authority of these two Acts do encounter with two Sorts of Offences or Misdemeanors; being furnished with a double Weapon.

1. Fine;

2. Amerciament.

The one Sort of Offences are *In Curia*.

The other Sort are *Extra Curiam*.

Extrinsical Offences.

Intrinsical Offences.

Co. 8. 38.
A Suitor
refusing to
make Pre-
sentment,
or refuseth
to be
sworn.

1. Now to oppose and subdue those extrinsical Offences, viz. those that are *extra Curiam*; the Jurors that are sworn to present, have peculiar Cognizance, and therefore Authority and Power to present them;

2. The second. Weapon to oppose intrinsical Offences, viz. those that are *in Curia*, which Offences are either in omitting or neglecting a Duty enjoined, which ought to be performed by the Jurors, Constables, Bailiffs, &c. or in committing some Contempt and Disorder, in the Face of the Court, by any other Officer or Suitor.

The Steward hath Cognizance, and may punish it by Fine, without Inquiry by the County, as,

If a Suitor being sworn of a Jury, shall refuse to make a Presentment there; Or if he do depart without giving up his Verdict, or if he refuse to be sworn, the Sheriff or Steward may impose a reasonable Fine upon him.

He may impanel a second Jury, to enquire of the Defaults and Concealments of the first, and to fine them for their Offence.

For Defaults of Refusants to make up the Jury, he may compel a Stranger coming within the View, to be of the Inquest; because 'tis the King's Court, and held for the Service of the Publick. 2 H. 7. 4.

What may be inquired of in this Court.

THE Steward may inquire of several particular Misdemeanours, comprised and enumerated in the Statute of 18 E. 2. even from the highest Treason to the lowest Trespass, though not here punishable. Which so far as they may concern the modern Jurisdiction of our present Times, such as are neither obsolete nor antiquate, you shall find in this ensuing Tract, viz. In the Charge of this Court. *Fines. Law 125.* cap. 20. *Stat. 22. E. 4. 22. Magn. Chart. cap. 17.*

What

This is added in your copy by Mr. T. M. T. Ed. 1710. Vol. I. p. 1.
What Things are not to be inquired of in this Court.

HE cannot inquire of the Statute of Labourers, or indict one feloniously committing a Rape; yet such Indictments must be delivered to the Justices of the Peace, according to the Statute of 1 Ed. 4. Bract. present. 16. Fitz. Tourn. 4. Ed. 4. 8 Ed. 4. 5. 22 E. 4. 22. 9 H. 6. 44. 2 H. 7. 4. No Com-
mittment to
Pris. &c.
yet he may
take a Re-
cognizance
for the
Peace.
Co. Inst. 4.
fol. 263.

He cannot commit any Man to Prison for his Contempt, neither can he take Recognizance to bind a Man to good Behaviour, as formerly he might, and as the Sheriff in his Tourn may do. Yet Co. Inst. 4. fol. 263, holdeth that he may take a Recognizance for the Peace. *Quare tamen.*

He cannot hold Plea of any Thing appertaining to the Mag. Chart. Crown, nor touching Freshold, or Lands, nor Debt, Tres. cap. 17. pails or otherwise.

This Court cannot take Indictment of any Felons for the Death of any Man, or in any other Case wherein it hath no Cognizance: If it do, it is *coram non judice*, and voidly; neither can it take a Presentment of an Offence done to a Parish or a particular Man.

Such Things as are Trespasses by the Statute or Offences against the Statute, the Sheriff's Office doth not extend to it here, except the Statute doth give in it an express Authority to the Tourn or Leet; for *Natura est generalis regulariter admissit* exceptionem.

Nothing but Nusances and Grievances, Offences or Trespasses, as are popular and common to many Persons: And therefore Trespasses for breaking of Closes, nor Assaults made to a sole and particular Person, is here inquirable, except there be Bloodshed.

It was the Occasion of a very learned Contest or Argument, Pach. 24. Gen. Bo R. Whether a Court-Leet may enquire of private Assaults and Batteries, if there be no Bloodshed in the Case? Bacon Justice, and Walker an Apprentice of the Law in the Inner-Temple, held that a Court-Leet might enquire of them: But Justice Rolle held the contrary, because they are actionable at the Common Law only, by the Party injured, and are not publick Offences against the Publick.

Upon all Presentmenes and Indictments taken before the Sheriff in his Tourn, he hath no Power to attach, arrest, or put in Prison, nor to levy, nor take any Fines or Americaments of any Person so indicted or presented before them, by Reason or Colour of any Indictment or Presentment taken before them in their Tourns, but the Sheriff shall bring and deliver all such Indictments and Presentments to the Justices of the Peace at the Sessions, that shall be holden for the said County; if not, a Forfeiture for every one not delivered 40 l. Dyer fol. 155.

In Leets the Time, the Place where they are holden, and the Persons that are obliged to attend, are considerable.

Fitz. Leet

^{11.}
Stat. 9. H. 3.
f. 33.

1. As to the Time, it must be kept twice a Year according to *Alfred*, *quotannis celebrissimus bis convexus agetur*, one Month after *Easter*, and one Month after *Michaelmas*: At the Tourn after *Easter*, no Actions popular are to be enquired after, &c. but only take their Suit, who are Suitors, and to take the View, &c. And at the Tourn after *Michaelmas*, then to enquire of such as are enquirable. *Magna Charta*, cap. 35.

2. Now to the Place where it is holden, and that must be within the Precinct and Liberty, *in loco debito & consueto*; and if it be done otherwise, whatever is acted in it is void, *& coram non judice*.

52 H. 3.
f. 2. & 10.
Br. Leet 42.
Fit. 106.
f. 161.

3. Thirdly, What Persons are to hold in this Court; there come by the Service of their Fees: and all other People above the Age of 12 Years, and under 60; only Ecclesiastical and Religious Men, all Earls, Barons, Tenants in Ancient Demesne, and all Women, are excepted because they are never sworn upon any Inquest.

Jury, what.

1 R. 2. f. 4.
Westm. 2.
6 H. 4. f. 1.

There must be at the Court twelve (at the least) of the most discreet and sufficient Freeholders, such as are of Repute and Estimation, and have Freehold Lands within the same County of the Value of twenty Shillings at the least, who ought to be impanelled and sworn (by the Sheriff) to enquire of, and present all Things there enquirable and presentable, who ought to take all Indictments by their Oaths, and must deliver in their Rolls and Inquisitions indented and sealed between the Sheriff (or Steward) and the Jurors.

Abuser.

It is said by *Kitton*, That Court-Leets are to be forfeited in a *Quo Warranto*, which are kept by ignorant Stewards. Some make a Doubt of it in Offices which concern the mere and only private Profit of the Lord, without Damage to the Publick, the Ignorance of a Steward can be no Cause of Forfeiture; but in Offices concerning the Administration of Justice, *pro bono publico*, as a Let, there is no Doubt but the Franchise may be forfeited.

Compt. Jur. The Steward of the Liberty of the Abbot of *Crowland*, by Colour of his Liberties of *Infangtheif*, adjudged a Man to Death, and for this the Liberty was seized in the King's Hands, *Et nulla pena seneschallo*, for *Quicquid justicio fecerit-de recordo ignoranter & pro defecitu scientie, non erit pro eo punitus*.

2 R. 3. fol. 10.

A

A Lord of a Leet was fined forty Shillings, for that his Steward took an Indictment *de morte hominis*, in this Leet, which did not belong unto it, and so incroached upon the King. And also took an Indictment of a Robbery done out of his Franchise in another County. *Brook in smibus pur Contempt* cites 41 *ff. p. 30.* If the Lord do hold his Leet at any Time after the Month from *Easter* and *Michaelmas*, it is void by the Statute of 31 *E. 3. 15.* and all Presentments void, and the Lord shall lose his Profits. *Bro. Leet 17 & 21.*

Affize of Bread and Beer, and Pillory and Tumbrel, are appendant to the View of Frankpledge, where a Man had them by a Grant from the King; if he doth not keep Pillory and Tumbrel, he loseth his Franchise. *Bro. Quo War. 8.* Nonuser.

The Abbot of St. Albans having the Grant of a Gaol, detained the Prisoners, for that he would not be at the Charge to sue out a Commission for their Delivery; the King seized the Franchise into his Hands. *8 H. 4. 18.* Refuser.

How Amerciaments are forfeited, and what shall be Causes to amerce, &c.

A Merciament in Latin is called *Misericordia*, which signifieth Moderation and Mercy, because it ought to be assed mercifully, and ought to be moderated by Afferment of his Equals (otherwise a Writ *de moderatis misericordia lieth*) which Writ and the Law in that Case is grounded upon the Grand Charter, cap. 14, *Quod nullus liber homo amercietur nisi secundum quantitatem delitti:* Or because the Party offending putteth himself on the Mercy of his Majesty. And the Difference between a Fine and an Amerciament is, that a Fine is assed by the Court, but Amerciament by the Country: For Amerciaments are to be imposed *per juramentum legalium hominum de vicinitate.*

Amerciament,
whence
derived,
and how
it differs
from a
Fine.

Co. part 8.

Glanvil in this Book saith, *Est autem misericordia Domini Regis qua quis per juramentum legalium hominum de vicinitate eatur amerciandum est.* And *Eleta*, lib. 1. cap. 48. saith, *Quod liber homo non amercietur nisi per Sacramentum parium suorum.* And with these agreeeth *Braction*, lib. 3. cap. 1. *Fitz. N. B. fol. 72.* And if the Steward set an Amerciament upon a Man on his own Head, it is void. By which Authority it plainly appeareth, that Amerciaments are to be imposed by a Jury, or by the Oaths of good and lawful Men; and therefore I have much admired, when sometimes I have seen Stewards assume upon themselves to set down Amerciaments without the Assistance of the Jury, which Act was directly opposite to the great Charter of England, and contrary to the said Authorities of Law.

But

But to demonstrate the Cause of Amerciament, viz. the not appearing at a Leet is a good Cause to amerce a Reliant; and the Lord who distrainteth for the Amerciament needs not to shew for what he distrainteth, because the Tenant hath tendered something for Amends, although the Tenant doth not know the Cause. 45 E. 3. 9. *Averry* 80. v. 11 H. 4. 89, 12 H. 7. 15.

If a Man be amerced for a Thing done in a Town wherein he dwelleth, he may be distrainted for it in any Place within the Hundred or Leet. 11 H. 4. 88.

A Sutor at a Leet may be amerced for not prosecuting Things presentable, being sworn with others, and a general Averry; but he may say, that there was nothing to be presented. 11 E. 3. 9. *Averry* 155. 10 H. 6. 7. *Co. Lib. Entries Deb.* 139. *Co. Part 8. Grifley's Case.*

A. B. was amerced in a Court-Leet for receiving and keeping one in his House, who was not sworn to the King: In which Case it was holden, that no Goods should be distrainted for this Amerciament, but only the proper Goods of the Party amerced, although the Goods of others were levant and couchant on the Ground. 41 E. 3. fol. 26. *Br. Leet* 4. And in 47 E. 3. fol. 11. the Prior of Tindal's Case, where the Prior was amerced, and another Man's Goods were taken and distrainted on the Grounds of the Prior for the said Amerciament, and the Distress was not well taken; for a Fine or Amerciament are collateral Duties, and attend upon the Person, and do not charge the Soil.

A Reliant was amerced for not cleansing of a Ditch, and Pain levied upon him, that he cleansed it after, and a Distress taken for not doing of it, &c. 39 E. 3. 36. 41 E. 3. 26.

Reliants and Tenants may be amerced in the Leet for refusing to swear. 38 E. 3. 18. *Conusance* 23.

The Lord of a Leet shall not prescribe to amerce the petty Jury for their false Verdict, the same being found by the grand Jury, for it is no good Custom; but they may be amerced for concealing of any Thing which is presentable there, and this is by Custom. M. 9 H. 6. 42. *Custom.*

An Amerciament in a Leet may be well levied by an Action on Debt. 12 H. 2. *Lev* 43. 10 H. 6. 7.

One was amerced for brewing Ale, and selling it contrary to the Assize within the Hundred; and it was holden, that although he was reliant within another Leet, yet the Amerciament is good where it is made; so it is where one sells Bread and Ale in a Market which is in another Leet, than where it was brewed, &c. *Ass* 12 E. 3. *Averry* 105.

W. brought an Action of *1 respals* against *H.* the Defendant justified, that the Plaintiff was a common Baker dwelling in *T.* in the County of *N.* and that it was presented in a Leet, in that he had sold Bread against the Assize in *locis vicinis*; whereupon

43 E. 3. 9.
Averry 80.
v. 11 H. 4.
89, 12 H.
7. 15.

21 H. 4. 88.
11 E. 3. 9.
Averry 155.
10 H. 6. 7.
Co. Rep. 8.
Griesley's Case.

29 E. 3. 36.

41 E. 3. 26.

9 H. 6. 42.
Custom.
Ass 13.

23. *Averry*, 105.

Pafib. 14.
Jac. Rot.
15. 1.

upon he was amerced, and by Amerciament affeered to 10 s. and that by a Precept out of the Court he did distrain the Plaintiff: And the Court gave Judgment for the Plaintiff, because it did not appear, that the Offence was committed within the Jurisdiction of the Leet, which should have been specially pleaded, but perhaps the Presentment in the Leet is good, without special Mention in the Presentment that it was done in the Jurisdiction, if the Truth were so: And note, that the Presentment was not so full and perfect. And it was noted by Hobart that the Plea was absurd; for it was said, that he was amerced, without saying (what) and that the Amerciament was affeered to 10 s. for which he distrained. Now the Jury must amerce to a certain Sum which may be mitigated and affeered by others; and thereof these Offices cannot be confounded. *Hob. R. p. fol. 119. Wilton and Harding.*

If my Horse be in the keeping of another Man, he may be distrained; if I be amerced in the Leet for stopping the Highway, &c. 47 E. 3. 12. But if an Innholder be amerced, the Horse of a Stranger cannot be amerced 10 H. 7. f. 21.

By 3 H. 7. f. 4. A Distress taken for an Amerciament in a Leet or Law-day, may be sold as well in the Case where the Subject hath by Charter or Prescription the Profits of the said Courts, as where the King himself hath them; and all the Reason which that Book yieldeth for it is, because they be the King's Courts: But a Distress taken for an Amerciament in a Court-Baron cannot be sold; and in 22 M. pl. 72. it is said, That if one recover a Debt in a Court-Baron, the Goods of the Debtor could not be sold for it: Yet I have seen always in Practice, that for Debts and Damages recovered in the County-Courts, the Goods of the Debtors have, and be usually sold for them by *Leveri facias*, which (I believe) is used *per totam Angliam*: And a Sale in such a Case in Court-Baron is good; and with this agreeth the Book of 7 H. 4. f. 27. and 21 H. 7. f. 40. In a Court-Leet one prescribed and alledged a Custom, to have of every one which made an Affray within his Liberty, a certain Sum of Money, and prescribed also to distrain for it, and to sell the Distress; and with this agreeth 11 H. 4. 14. and 11 H. 4. f. 2.

Note, That in 8 R. 2. *Swory* 194. If one be amerced in the Sheriff's Torn, the Sheriff may distrain throughout the whole County; and in like Manner if the Amerciament be in a Leet throughout all the Precincts of the Leet.

The Statute of 1 E. 4. expressly appoints, that no Fine or Amerciament in the Tourn or Leet shall be levied, unless it be certified at the next Sessions of the Peace by Indenture enrolled there, and by Process made from the Justices of the Peace to the Sheriff or Steward.

Stat. 1. E. 4.

How Presentments in Leets shall be traversable.

A Traverse is a Plea of the Party, containing Matter to the contrary of that the Party stands accused of, or which is laid to his Charge.

Note, Scard saith, That if a Thing be presented at the Day in a Leet, this is as Gospel, if it pass that Day without being repealed: And therefore if a false Presentment be made, he shall have an Action of False Imprisonment the same Day against the Prosecutors; but if he stay until another Day, it is otherwise: And he who is amerced there for Purpresture, or other Nusance, in Avowry for the Amerciament he shall traverse in no Point. *Wilby*, If it be presented, that he hath levied a Ditch over the Highway, if the Presentment be false, he shall have Trespass against him who throws it down by Force of such Presentment: And so of my House abated, by reason of such False Imprisonment. *Hill. 21 E. 3.*
Bur. 271.

In some Cases the Books and Authorities of Law admit the Party to traverse, and in other Cases the same is to be denied: For in 5 H. 7. f. 9. and 45 E. 3. f. 8. *Dyer* f. 13. if one be presented in a Court-Leet for a Blowpipe or any other personal Wrong, this Presentment is not traversable, but the Party is without Remedy therein, though the Presentment be false, and the Matter of it untrue; and the Law is also of such a Presentment made in the Sheriff's Tourn: And herewith also agree the Books of 2 R. 3. 11. and 19 H. 8. 11. *Fitz. Afix.* plac. 442. and 8 E. 4. 5. and the Reason thereof (for *ratio legis est anima legis*) is delivered in 5 H. 7. because no Process is there awardable against the Party to call him to answer: Yet in the same Book of 5 H. 7. it is said, That if a Presentment be made which toucheth a Man's Freehold, he may there traverse the same. But I take it, the Party must first remove the Presentment into the King's Bench, and there traverse it; for in the Court-Leet there can be no Traverse taken or tried, no more where the Presentment toucheth Freehold, than where it only concerneth a personal Wrong; therefore the Reason alledged in 5 H. 7. according to the Opinion of *Collis* in his reading upon the Statute of *Sewers*, fol. 169. cannot be the true Gaulie wherfore in personal Wrongs the Presentments cannot be traversed; but the very true Reason therein is, because these petty Presentments be of such petty trifling Matters, that in Avoidance of Trouble the Law esteemeth them not worthy of Traverse and Trial; *de minimis non curat lex*; and Justice *Fairfax* in 5 H. 7. is of Opinion, That a Presentment made before Justices of Peace in a Sessions is traversable;

and

and with this agreeeth *Staundf.* fol. 182. and in other Courts of Law, there oftentimes fall out Matters which one shall not be admitted to take a Traverse unto, and in some other Cases he shall, as by these succeeding Authorities may appear. According to others more probably, the true Reason is, because all the Resiants are supposed to be present; and so they may traverse the Presentment when made. In the 37 *Affz.* pl. 7. A Presentment was taken before *Green and Ingdom*, Justices of the King's Bench, that *J. S.* who had killed *A.* had Goods to the Value of 80*l.* in the Hands of one *John Lombard*; and upon this Presentment a *Scire facias* was awarded against *John Lombard*, to shew Cause wherefore these Goods should not be seized to the King's Use: *John Lombard* came in and tendered a Plea to the Presentment, that these Goods were not the Felon's, but that they were delivered to him to keep to the Use of a Cardinal at *Rome*, and he was there admitted to this Plea; and with this agreeeth 45 *E. 3.* fol. 26. expressly: Yet in that Book, and *Staundford*, fol. 185. it is holden for Law, That if it be presented before a Coronor, that *J. S.* killed *A.* and fled for the same Fact, and after, upon his Trial he is quit, yet he shall forfeit his Goods upon the *Fugam scilicet* before the Coronor, and he shall not be received to take any Traverse to the said Presentment in that Point. The Difference in which two Cases is this, That a Stranger, as *John Lombard* was, in the first Case shall not be peremptorily concluded; for it were no Reason one Man's Goods should be forfeited in another Man's Default, and he should have no Answer therunto: But in the other Case, in Terror of Felons, though he be acquitted of the Felony, yet he is not acquitted of the Flying, and he may be guilty notwithstanding his Acquittal. There be other Cases in the Law which admit no Traverse, as in *Baggs's Case*, Co. 11. Rep. where a Writ was directed to the Mayor and Burgesses of *Plimouſh*, to restore *Baggs* to his Alderman's Place there, which they had put him from, and they return a Cause sufficient to bar him, which notwithstanding is false; yet he shall not be received to his Traverse therein; neither could a Traverse be admitted in the Certificate of the Bishop, wherein was contained, that *J. A.* Parson of *D.* had refused to pay his Dimes to the King, by Means whereof the Parson lost his Benefice; which Case is in 8*r. Cases Temp. H.* 8. pl. 332. *Dyer* fol. 116. 7 *H. 4.* fol. 4. 21 *H. 7.* 8. and many other Books be, that no Averments shall be taken to the Returns of Sheriffs, to take any Issue thereupon; yet by the Opinion of those Books, an Action upon the Case lieth against the Mayor and Burgesses, and against the Bishop for their Certificates, and against the Sheriffs for their false Returns; and if Justification be made by them, they may be traversed: But these will not reduce the Parties to their former Liberties, *viz.* not the Alderman to his Place, nor the Parson

Parson to his Church; but Damages in those Cases are only recoverable. But now to return to the Tract from which I have a little deviated.

He who is amerced in a Leet may traverse the Resiancy, but he shall not say the Place where is within another View. 4 E. 3. 12. 10 E. 3. 5. 41 E. 3. 26. But if he had been sworn in the Leet, he could not traverse. 10 E. 3. 9.

The Method of keeping the Sheriff's Town or Court-Leet.

LE T the Sheriff (or Steward) make a Precept unto the Bailiffs, to summon the Court by a reasonable Time, to wit, fifteen or sixteen Days before the Court be kept (if it be less Time it is sufficient in Law) the Precept must be made sufficient according to this subsequent Precedent.

A. B. Ar. Vic. Com. Ebor. ballivo libertat. five Wapentag. de S. salut. Tibi manda quod diligenter premonere fac. Curia cum vis. Franc. pleg. tenend. infra libertas predicti. avi die Augusti sequant. circa horam octaua. ante merid. eiusdem dies apud Com. Tolbooth de R. Et hoc. &c. dat. sub sigillo officii mei xxviii. Julii anno Regni Car. secundi. Dei gratia. Anglie. Scotiae. Francie & Hibernie Regis fidei Defensoris. &c. xiv.

If it be in a Court-Leet held in a particular Hundred, or Manor of any Lord, then the Form of the Precept is thus:

A. B. Gen. Seneschal. I. N. An. Hundred. five Man. sui de O. ballivo ejusdem Hundred. five Man. salut. tibi manda quod diligenter premonere fac. banc Curiam cum vis. Franc. pleg. Hundred. five Man. praec. tenend. ad locum consuet. ac S. xvi. die Aug. prox. sequant. Et hoc. &c. dat. sub sigillo meo xxviii die Julii anno Regni Caroli secundi. Dei gratia Angl. Scot. Franc. & Hibern. Regis fidei defensoris. &c. xiv.

After the Steward hath placed himself in the Court, he must enter the Court in the Title of the Beginning of the Court-Roll, with the Name of the Place where the Court is holden, in this Manner:

Ebor. A. Vijs Franc. pleg. cum Curia A. B. Ar. Vic. Com. pref. tent. apud D. die Martis decimo sexto die Martii anno Regni Dom. nostri Caroli secundi. Dei gratia Anglie. Scotiae. Francie & Hibernie Regis fidei Defensoris. &c. anno Dom. 1662.

Per eundem Vic.

If in the Lord's Court, then thus: *et deinde non possit A
Ebor. H. Vitis Bram. pleg. cum Curia J. N. generos. Domini
eiusdem ibid. tenet die Mercurii, &c.*

Per A. B. Seneschalum.

Then cause the Bailiff to make three Proclamations, repeating them after the Steward in this Manner:

Proclamation.

ALL Manner of Persons who were summoned to appear here this Day, to serve our Sovereign Lord the King, and the Sheriff (or the Lord of the Manor) for this Court now holden, draw near and give your Attendance, and every one of you answer to his Name as he shall be called, upon Pain of Amerciament.

After all are called, and those that are absent be marked to be amerced; then the Steward shall cause the Bailiff again to make other three Proclamations, viz. O yes, &c. causing the Bailiff to say:

Proclamation.

In any will be eschewed, come into the Court and you shall be heard; and all such Persons as were eschewed the last Court, let them come in now and warrant their Eschews, otherwise they will be amerced. And if any desire to be eschewed by Tithingman, or other Neighbour, then for the first Court they may be eschewed.

The Eschew must be entered in this Manner:

A. B. per C. D. effoniatur de communi, &c.

Inquire if there be any Precepts, Attachments or Distresses depending in the Court-Rolls, call them openly in Court, and know if the Bailiff have executed them.

Then impanel the Inquest, commanding the Foreman to lay his Hand upon the Book, swearing him as follows:

You shall swear, that you shall diligently enquire, and true Presentment make of all such Things as you shall be charged with concerning our Lord the King, or the Lord's Court of the Manor; you shall well and truly keep his Majesty's Council, your Fellows, and your own; you shall not conceal or hide any Thing for Favour, Fear, Promise or Affection

The Oath
Foreman
of the
Jury.

Affection you bear to any Person or Persons, or present any Thing for Hatred or Malice you bear to any Man; but you shall present and tell the Truth, according as Things may or shall come to your Knowledge by Information or otherwise, making a true Presentment thereof without Concealment. So help you God, &c.

After the Foreman is particularly sworn, cause four (at once) of the Inquest to lay their right Hands together on the Book, swearing them in this Manner :

The Oath
of the rest
of the In-
quest.

The same Oath which ~~4. B.~~ your Foremen on his Behalf had taken, you and every of you shall well and truly keep on your Behalf: So help you God.

After they are all sworn, cause the Bailiff to number them as the Steward doth read them;

Then command the Bailiff to make Proclamation, saying after the Steward.

Proclamation.

ALL Manner of Persons are commanded to keep Silence whilst the Charge is giving, under Pain of Imprisonment; and you that are impanelled and sworn, bear your Charge.

Before the Charge gather the Common Fine, which the Tenants do pay every Leet or Law-day, according to the Custom of the Manor.

Then proceed to give the Charge.

The

The Charge of the Court-Leet.

YOU must understand, That High Treasons, Petty Treasons and Felonies, which are against our Sovereign Lord the King, are to be inquired of and presented to this Court, but not punishable here; the which Offences you must set down in Writing, indented and sealed, the one Part to remain with the Steward, the other with the Jury, and the same must be delivered to the Justices of the next Assizes holden within the County.

Charge of the Court-Leet.

1. You shall first enquire of High Treasons; as if there be any among you that do compass, imagine or intend the Death of the King, or his Children, or of their Consenters, or to levy War against his Majesty, or be adherent to his Enemies.

2. If any counterfeit the Great Seal of England, or Money of this Nation, or do clip, walb, or round the same.

3. If a Servant kill his Master or Mistress; or if a Woman kill her Husband, it is Petty Treason, and here inquirable.

4. If one kill another in his own Defence, or by Accident, it is here to be enquired of as Bloodshed, &c. Scounds. 15. 4.

Judgment.

Death, and Forfeiture of all their Goods and Chattels to the King, as well real as personal, moveable and unmoveable, Corn growing, and all their Debts due to them; scilicet, all such Goods and Chattels, &c. as they had at the Time of their Attainder.

Death, and Loss of Goods; but of Lands during Life only, and no Corruption of Blood, nor Forfeiture of Dower.

Death, the Escheat hereof ap- pertains to the Lord of the Leet, Treason for such Treasons touch not his Majesty himself.

Loss of Goods, in both, and Charter of Pardon must be pur- chased for it. Stat. of Glouc. cap. 9.

Charge of the Leet.

Judgment.

Rape.

5. If any Man ravish a Woman, whether Wife, Widow or Maid, tho' she doth afterward absent, it is here enquireable as Trespass. And their Aiders and Abettors are to be enquired of.

Burglary.

6. Burglars are those, who in the Time of Peace, or in the Night-time, with a felonious Intent to rob or kill, do break any Houses, Churches, Walls or Gates, it is here enquireable. *Stat. 20. 6.*

Petty Larceny.

7. Petty Larceny is the felonious Intent and taking of any Thing under the Value of 12 Pence, as, Capons, Pigs, Hens, and such like, or Cloths off Hedges, and is here enquireable.

Punishment defaced.

8. Putting out of Eyes, cutting out of Tongue, or disfiguring any Member, to the Intent they should not see nor speak, is here enquireable as Bloodshed.

Misprision of Treason.

9. Misprision of Treason is, if any know of Treason, and concealeth it four and twenty Hours, you are to enquire of it.

Sorcerers and Conjurers, Witches.

10. You are to enquire of Conjurers and Witches, and such as practise Diabolical Arts, or any Inchantments, whereby any Person shall be killed, destroyed, or consumed, it is Felony in them, their Abettors and Concealers.

Death, and the Loss of Goods and Lands: The Benefit of Clergy is taken away, by the Statute of 18 Eliz. cap. 6. The Aiders and Abettors shall receive the like Punishment as well as he that committed the Fact.

6. Death, and Loss of Lands and Goods, and so shall their Acces-

The Punishment is corporal, as Whipping, and Loss of Goods, if they have any; for the Law suffers no Offence to escape unpunished.

Judgment of Death, and Loss of Lands and Goods. *5 H. 7.*

Loss of Goods and Chattels for ever, of Lands during Life, and perpetual Imprisonment, no Bail being admitted.

*Death grounded upon the Law of Moses, Exodus 21. 18. and Leviticus 20. 27. and Loss both of Lands and Goods. *5 Eliz.**

Some of our Pulpit Temporizers would make Astrology (that sublime Science) one of the Number; but the Law is not guilty of their Ignorance.

11. The

Charge of the Leet.

Judgment.

11. The taking away of Ornaments feloniously out of Churches or Chapels, is here enquirable as Felony.

12. The felonious taking of Doves in Dove-houses, young Pigeons, Goshawks out of their Nests, taking of Fish out of Ponds, Stews or Trunks, (but in a common River otherwise) or taking Cignets, Swans marked, Peacocks, or any domestic Deer, knowing it to be so, and setting upon one in the Highway, though he take but the Value of a Penny, is Felony, and are here enquirable.

13. If any one feloniously burn any Dwelling-house, or Barns or Stacks, or Mows of Corn in the Night-season, it is Felony at the Common Law, and by you to be enquired of.

14. You are to enquire if any one procure or command another to commit the Felony, though he be not present when it is perpetrated, he is said to be an Accessary before the Fact: Or if any receive or aid a Felon, having Knowledge of the Fact which he committed, he is an Accessary after the Fact. Staundf. 40.

15. If any be arrested for Felony, or any other Crime, and afterwards the Party in whose Custody he is, tolerates him to go at large, this is a voluntary Escape, and enquirable.

Death, no Benefit of Clergy, Sacrilege.
Frustra petit auxilium Ecclesiæ, qui peccat contra Ecclesiæ statum.

Death, with the Loss of Lands, Taking of Goods and Chattels, and the like. Doves, young Pigeons, Goshawks, Fish, Cignets, Swans, Peacocks, domestic Deer, and Robbery.

Death, and Loss of Goods and Burning of Houses or Barns.

The Judgment is the same as against the Felon, according to the Merit of the Fact.

It shall be adjudged against him that suffered the Escape, as if he were the Offender. Staundf. fol. 33.

Charge of the Leet.

Judgment.

Escape negligent. 16. If one be arrested for Felony, and escapeth, contrary to the Will of the Arrester, and is not followed with fresh Pursuit, nor taken before the Pursuer loseth sight of him, this is enquireable.

Rescue.

17. If any rescue and set at Liberty any Person apprehended, and arrested for Felony, it is Felony in the Rescuer, and here enquirable.

1 H. 7. 9.

1 E. 3.

18. These Things mentioned in this first Part of the Charge, are here to be enquired of and presented, but not punishable here, but are to be certified by the Steward to the Justices of the Peace at the Sessions next ensuing. But the Musters contained in the subsequent Part of the Charge, are here in this Leet to be enquired of, presented and punished, but not certified as in the Part preceding. And these are grounded upon Common and Statute-Laws of this Kingdom.

Constables, Tithing-men.

19. It behoveth you to enquire, if the Constables and Tithingmen have not been remiss in executing their Office upon Vagabonds, Rogues, and sturdy Beggars, that have come in within their Liberty and Charge.

You ought also to enquire of those that sustain and feed them.

Stocks.

20. You shall enquire if there be in every Tithing a Pair of good and sufficient Stocks according to the Statute, for the severe punishing of idle Persons.

Hue and Cry.

21. Whether Hue and Cry after Thieves and Robbers hath been duly pursued, lies next in your Way, to enquire of, presenting them that made Default.

Though he be afterwards taken, yet it is finable according to the Quality of the Offence.

The same Judgment is as in a voluntary Escape.

For every such Neglect or Default they ought to forfeit 20 s.

The Penalty is 10 s. for every Time they give Alms to such.

If there be not, the Tithing loseth 5 l.

The Penalty or Forfeiture of such Defaults 5 l.

Charge of the Leet.

Judgment.

22. All Purprestures are here enquireable, which are either in *eligidendo* or *destruendo*, either in setting up, or casting down any Thing which may tend to a publick Annoyance; as in levying of Ditches or Hedges, or by making or filling up of Ditches, or if Walls, Houses, or Pales be made and erected, or thrown down, or any Ways or Paths opened, or stopped to the Damage of the People, or if any Waters be stopped or diverted out of their right Course; or if the common Rivers or Watering-places for Beasts be corrupted and annoyed with Hemp, Hay, and such like; or if any Encroachment be upon the King's Highway, or any Carrion or unwholesome Thing be cast into the same.

23. Enquiry is to be made of the Defect of Bridges or Causways decayed or broken down, and who ought to repair them.

24. Enquiry also is to be made, if common Pounds be good and close to retain such Distress as shall be brought to them, until they be delivered thence by Order of Law, and to present such as ought to keep them in such Order, if they be taken.

25. And forasmuch as Highways (especially in Winter) are very troublesome to travel in, it was enacted, 1 & 2 P. & M. c. 8. That the Constables and Churchwardens of

The Party offending for every Common Time so doing forfeiteh 20 s. Nusance.
33 H. 8. cap. 17.

The Penalty is according to the Bridges discretion of the Jury upon View.

This is also referred to the Common Pounds.

Every Surveyor neglecting his Office, and making Default, for 20 s. Surveyors of the Highways.

Charge of the Leet.

Judgment.

every Parish within this Commonwealth should yearly upon Tuesday or Wednesday in Easter-Week assemble a Number of the Parishioners, and elect two honest Men of them to be Surveyors of the Highways for one Year, and that they shall have Authority to direct the Persons that shall be appointed for the mending and repairing of them, according to their Discretion, faithfully executing their Office.

Every Person for every Plowland in Tillage or Pasture within the Parish, and every Person there keeping a Draught or Plough, shall send every Day (that the Ways are in mending) one Wain or Cart, with all necessaries convenient to carry Things, and also two able Men with the same.

Every other Householder, Cottager and Labourer, not being an hired Servant by the Year, shall by themselves, or one sufficient Labourer, upon every of the said Day's work there.

Stat. 3 & 4 W. & M. cap. 12. intituled, An Act for the better repairing and amending the Highways, and setting the Rates of the Carriages of Goods. Surveyors of the Ways and Parishioners, are to meet on the 26th of December yearly, to make a List of the Men qualified by that Statute for Surveyors, and they are to be appointed by the Justices of the Peace at a private Sessions, to be holden the 3d of January, or within fifteen Days after, and to execute the Office upon Penalty of 5 l. and to view the Highways, and to present upon Oath, and to give Notice of Defaults to the Owners or Possessors, and publick Notice in the Church. See the Statute at large.

36. You

Charge of the Leet.**Judgment.**

26. You shall enquire if any Hays, Fences, Dikes or Hedges next adjoining on every Side, to any High or Common Ways, be from Time to Time ditched, scoured, repaired and kept, and all Trees and Bushes growing in the Highways, be cut down by the Owners of the Ground or Soil, whereby the Ways are opened, and the People may have a more easie Passage.

27. You shall further enquire if any ancient Bounds, or Land-marks be withdrawn and taken away, such as distinguish or divide Hundreds, Parishes, Tithings, Commons, Common-Meadows, and Common-Fields, to avoid Confusion, and consequently Dissension.

28. You shall further enquire if there be any common Breakers of Hedges or Fences, by which their Neighbour's Ground is made subject to the Incursions of Cattle, which are the Grounds of many Actions of Trespass, to the Disturbance of the Peace of the Kingdom.

29. You shall also enquire of the Breach of any common Pound to take away Distress out of it, though the Distress be without Cause. Or if any shall rescue, or take away by Force any Cattle, which is distrained for any Rent, Ameircament, or other Cause, before it be in custodia legis, in the Custody of the Law, or impounded, it is presentable.

*Every Person not so doing for
feieth 20 s. 18 Eliz. 9.*

Fined according to the Direction of the Jury. Boundaries

*Such Offenders are to be stoned Hedges
and whipped. and whipt. brothers.*

*Finedde according to the Direction of the Jury. Pound-
breach.*

*Or a Writ de parco frago,
hebb against him at Common
Law. F. N. B. 139.*

Rome.

If any by preaching, printing, writing or teaching, or otherwise, hold or stand with, extol or defend the Authority of the Bishop of *Rome*, heretofore used or usurped within this Realm, he incurs the Danger of the Statute of 16 R. 2.

This Statute is to be read or declared in every Leet.

No Person shall build or erect any Cottage for Habitation, or convert any Building or House to that End, unless he do lay four Acres of his Freehold Inheritance near to the said Cottage to be occupied therewith, upon Pain to forfeit to the King, his Heirs and Successors, 10*l.* for every such Offence.

10*l.* every Offence.

*Continuing Cottages, 10*l.* a Month.*

Inmates.

10*s.* per Mensem.

Excepted.

Forfeits ad usum Dom. Late.

And every Person that shall willingly uphold, maintain and continue any such Cottage, &c. for Habitation, shall forfeit 10*l.* for every Month that it be so continued.

There shall be no Inmate, or more Families or Household than one dwelling in any one Cottage, made or to be made, upon Pain that every Owner or Occupier of such Cottage, placing or willingly suffering any such Inmate, shall forfeit to the Lord of the Leet 10*s.* for every Month that such Inmate shall dwell; except Cottages in Market-Towns, Cities, Towns Corporate, and for Labourers in Mines, and for making Brick, Coals, &c. and within a Mile of the Sea, for a Sailor or manual Artificer for Shipping, and for Foresters and Shepherds, and to be appointed by the Justices in Assize or Sessions, &c.

A Steward of a Leet may enquire and take Presentments of Offences *contra Stat. 31 Eliz.* against erecting Cottages, and Inmates, and upon such Presentments to levy by Distress such Forfeitures to the Use of the Lord of the Leet.

The Lord may sue for them in any of the King's Courts by Action of Debt.

Charge of the Leet.

Bloodshed.
Assault

30. You shall also enquire, if any Assaults be committed, whereby Bloodshed ensueeth to the Disturbance of the People of this Kingdom which are here enquirable. 1 R. 3. f. 1.

Rescous.

31. You shall further enquire if any Rescous were committed upon the Sheriff or his Baillifs in Disturbance of them from the taking and detaining any Person arrested.

*The Fine for the Offence is according to the Discretion of the Jury, but commonly it is 3*s.* 4*d.**

An Action lieth against the Offender at the Common Law.

32. You

Charge of the Leet.

Judgment.

32. You shall enquire if there be within the Precincts of the Leet any Common Barretors, such as are Common Incendiaries of Strife and Discord amongst their Neighbours, and are ever fishing in troubled Waters: They are of both Sexes, Scolds, Brawlers, Inventers and Dispersers of Calumnies and Reports, whereby Discord and Inquietude ariseth in the County.

33. You shall enquire if any Alehouse-keeper, &c. have permitted any Inhabitant or Townsman (except Labourers and Handicraftsmen, or Persons invited by Travellers) to continue tippling or drinking in any such House.

34. You shall enquire if any buy or cause to be bought any Virtual, or other Thing, coming towards any Fair or Market, to be sold in the same, or shall make any Bargain, Contract or Promise, for the having or buying the same, before it shall be in the Market, &c. such shall be adjudged a Forestaller.

35. You shall enquire if any regrate any Corn, Butter, Cheese, or other dead or quick Virtuals whatsoever, that shall come to any Fair or Market, to be sold, and doth sell the same again in any Fair or Market, holden in the same Place, or within four Miles thereof, shall be adjudged a Regrator.

Such Persons must give Sureties Common for their Good Behaviour, being Barretors. Disturbers of the Peace.

*David Saunders
his Book of
Law for the King*

The Pain or Forfeiture of the Alehouse-keeper, for every such keeper. Offence (to the Use of the Poor of 4 Jac. 1. in the Parish) 10 s. 6. 5.

He that is convict thereof, is Forestaller, for the first Time to be imprisoned for two Months, and the Loss of the Value of the Thing sold.

The second Time imprisoned by the Space of half a Year, and shall lose the double Value of the Goods, &c.

The third Time during his Majesty's Pleasure, and Judgment of the Pillory, forfeiting all his Goods and Chattels. See Stat. 5 E. 6. cap. 14.

The Judgment of a Forestaller. Regrator.

Charge of the Leet.

Judgment.

In grocer,
Appointed

36. You shall enquire if any do ingross and get into their Hands, or promise taking (unless it be by Demise, Grant or Lease of Land) any Corn growing in the Fields, or otherwise, Butter, Cheese, or other Victual, to the Intent to Sell it again, shall be reputed an illegal Ingrocer.

Affize of
Bread.

37. You shall enquire if any Baker thatt make and putt to Sale any Bread which is not of good and sufficient Weight and Affize, according to the Rate and Prizes of Corn and Grain in the Mackets adjoyning, or such as is not wholesome Nourishment for Man. And that he set his own Signer upon every Loaf of Bread that he vends, to the End that if it want Weight, it may be knowne, in whom the Fault lies.

Brewers.

38. You shall likewise enquire if Brewers do make Ale and Beer healthful for Man's Body.

Victrallers
2 E. 6. i. 5.

39. You shall further enquire if any Victraller, together with Boulterers, Cooks, Butchers, Bakers or Brewers have conspired or made Oath not to sell any Victuals but at certain Prizes; enquiring likewise of the like Conspiracies of Artificers and Labourers, to do but certain Work in a Day, and that at certain Hours.

40. The same Judgment of a Fore-staller and Registrer, wch shall be confirmed you shall putt to the same as above mentioned but shal be entitulado unto a gaol of 12 d. a day, and to one year & a day. Whiche if he offend shal be added to his yere & a day. Whiche if he offend shal be added to his yere & a day.

For the first, second, and third Time he shall be amerced according to the Merite of the Fault, and shall from Time to Time lose his Bread so found deficient in Weight, &c. But if he transgresse the fourth Time, then shall he in the open Earthen Market stand upon the Pillory.

Every such Person so doing, being therof lawfully convicted, shall forfeit for the first Offense 10 l. within six Days after Conviction, or twenty Days Imprisonment; having only Bread and Water for his sustenance.

For the second Offense 20 l. or else to stand on the Pillory, and for the third Offense 40 l. or the Pillory, and to lose one of his Ears, and ever after to be taken as an infamous Person, and his Oath not to be credited in any Matter of Judgment.

Charge of the Leet.

Judgment.

40. You shall enquire if any Inholders or Hostlers sell their Horse-bread, Hay, Oats, Beans, Pease, Provender, and all kind of Victual, both for Man and Beast, for reasonable Profit, having Respect to Prices in the Market.

For the first Offence to be fined Inn-hold according to the Quality of the cr. Offence.

The second Conviction, Imprisonment for one Month without Bail.

The third to stand on the Pillory.

And the fourth after Judgment of the Pillory given, he shall be forejudged from keeping any Inn again.

Fineable.

Butchers,

41. You shall enquire if any Butchers do sell any Manner of corrupt Victuals, or any contagious Flesh, that dieth of any Murrain or any other Disease, or kill and sell the Flesh of any Bull unbaited, or do puff and blow up Meat with their Breath, whereby it proves deceitful and unwholesome.

He shall not kill any Calf to sell, being under the Age of five Weeks.

Neither shall he use the Craft or Mystery of a Tanner, during the Time he is a Butcher.

42. You shall likewise enquire if any keep and use any false Weights and Measures of Bushels, Gallons, Ells, Yards, or false Weights, Ballances or Pounds; or if any use double Weights, the greater to buy with, the lesser to sell with, to deceive the Nation.

And if any sell any Corn, Wine or Ale but by a sealed Measure.

The Forfeiture for every Calf so killed and sold, is 3 s. 4 d. by the Statute of 1 Jac. 22.

For every Day 6 s. 8 d. Stat. Jac. 1. cap. 12.

To suffer Imprisonment until he hath made Fine to the King for the Offence.

False Weights and Measures.

For the first Offence, 1 s. 4 d.

For the second Offence, 6 s. 8 d.

For the third Offence, 20 s. to be set on the Pillory, and the Measures not sealed to be broken.

1 43. You

Charge of the Leet.

Judgment.

Tanners.
I Jac. I.
c. 22.

43. You shall also enquire if any Tanner doth use the Mystery of a Shoemaker, Currier or Butcher.

Or if he foretell any Hides, coming to the Market, or buy any Hides in open Market, unless it be of a Beast killed for one's own private Provision.

Or if he have offered to sell any Leather before it be well dried, sorted and marked, or hath tanned any Sheeps Skins, or if he put his Leather into any warm Woozes.

Curriers.

44. You shall enquire if any Currier doth exercise the Mystery of a Tanner or Shoemaker, during the Time he shall exercise the Trade of a Currier; or if he shall curry any Hide or Skin (except it be perfectly tanned) being not thoroughly dry, or shall burn or scorch any Hide or Leather in the currying.

Shoe-makers.

45. You shall further enquire if any Shoemaker do cause any Boots, Shoes, Slippers, &c. to be made of any Leather, but such as is well and truly tanned, curried and substantially sowed.

Searchers
and Sealers
of Leather.

46. You shall enquire if any Searcher and Sealer of Leather do refuse with convenient Speed to seal any lawful Leather.

Or if he receive any Bribe, or exact any Fee for the execution of his Office (except what is limited by the Statute.)

The Pain is to lose all the Hides or Skins so wrought, or the Value thereof.

For every Hide so bought be forfeits 6 s. 8 d.

For every Offence 10 l. and so stand on the Pillory three several Market-days.

To forfeit for every Hide or Skin 6 s. 8 d. and the Value of every Hide or Skin spoiled by his Workmanship.

The Penalty for every Pair of Shoes, Boots, &c. made or sold otherwise, 3 s. 4 d. and the full Value of the same.

The Penalty for every such Offence is 40 s.

For every such Bribe or Fee 20 s.

Charge of the Leet.

Judgment.

47. You shall enquire if any keep and maintain any Common-house, Alley, or Place of Bowling, Carding, Dicing, or any other Game prohibited by any Statute, or any other illegal Game, hereafter to be found out or invented.

Every Person that is found playing in the said Places or Houses, shall be by you enquired after.

All Constables, Tithing-men, Bailiffs, &c. ought to search once every Month for unlawful Games, as well within the Franchise as without.

48. You shall enquire of such as shoot either in Hand-Guns or Pistols, Crois-bows or Stone-bows; for all are prohibited to shoot in them, (except such as can dispend 100 l. per Annum) at any Hern, Duck, Mallard, Pheasant, Partridge, Pigeon, Heathcock, Teal or Wigeon.

Or, (1 Jac.) he that shoots at any of the said Fowls, or at any Deer or Hare, and cannot dispend ten Pounds per Annum in Land, nor is worth two hundred Pounds in personal Estate.

49. You shall further enquire of such as destroy any Fry of Fish in the Waters, Streams or Rivers, within the Precincts of this Leet with any Manner of Nets, or any Devise or Engine, (Angling excepted.)

For every Day 40 s.

Unlawful Games.

33 H. 8. 9.

Forfeit for every Time 6 s.

8 d. (up to March 25.)

12 d. (up to Whitsunday)

16 d. (up to Michaelmas)

20 d. (up to Christmas)

24 d. (up to Easter)

28 d. (up to Whitsunday)

32 d. (up to Michaelmas)

36 d. (up to Christmas)

40 d. (up to Easter)

44 d. (up to Whitsunday)

48 d. (up to Michaelmas)

52 d. (up to Christmas)

56 d. (up to Easter)

60 d. (up to Whitsunday)

64 d. (up to Michaelmas)

68 d. (up to Christmas)

72 d. (up to Easter)

76 d. (up to Whitsunday)

80 d. (up to Michaelmas)

84 d. (up to Christmas)

88 d. (up to Easter)

92 d. (up to Whitsunday)

96 d. (up to Michaelmas)

100 d. (up to Christmas)

104 d. (up to Easter)

108 d. (up to Whitsunday)

112 d. (up to Michaelmas)

116 d. (up to Christmas)

120 d. (up to Easter)

124 d. (up to Whitsunday)

128 d. (up to Michaelmas)

132 d. (up to Christmas)

136 d. (up to Easter)

140 d. (up to Whitsunday)

144 d. (up to Michaelmas)

148 d. (up to Christmas)

152 d. (up to Easter)

156 d. (up to Whitsunday)

160 d. (up to Michaelmas)

164 d. (up to Christmas)

168 d. (up to Easter)

172 d. (up to Whitsunday)

176 d. (up to Michaelmas)

180 d. (up to Christmas)

184 d. (up to Easter)

188 d. (up to Whitsunday)

192 d. (up to Michaelmas)

196 d. (up to Christmas)

200 d. (up to Easter)

204 d. (up to Whitsunday)

208 d. (up to Michaelmas)

212 d. (up to Christmas)

216 d. (up to Easter)

220 d. (up to Whitsunday)

224 d. (up to Michaelmas)

228 d. (up to Christmas)

232 d. (up to Easter)

236 d. (up to Whitsunday)

240 d. (up to Michaelmas)

244 d. (up to Christmas)

248 d. (up to Easter)

252 d. (up to Whitsunday)

256 d. (up to Michaelmas)

260 d. (up to Christmas)

264 d. (up to Easter)

268 d. (up to Whitsunday)

272 d. (up to Michaelmas)

276 d. (up to Christmas)

280 d. (up to Easter)

284 d. (up to Whitsunday)

288 d. (up to Michaelmas)

292 d. (up to Christmas)

296 d. (up to Easter)

300 d. (up to Whitsunday)

304 d. (up to Michaelmas)

308 d. (up to Christmas)

312 d. (up to Easter)

316 d. (up to Whitsunday)

320 d. (up to Michaelmas)

324 d. (up to Christmas)

328 d. (up to Easter)

332 d. (up to Whitsunday)

336 d. (up to Michaelmas)

340 d. (up to Christmas)

344 d. (up to Easter)

348 d. (up to Whitsunday)

352 d. (up to Michaelmas)

356 d. (up to Christmas)

360 d. (up to Easter)

364 d. (up to Whitsunday)

368 d. (up to Michaelmas)

372 d. (up to Christmas)

376 d. (up to Easter)

380 d. (up to Whitsunday)

384 d. (up to Michaelmas)

388 d. (up to Christmas)

392 d. (up to Easter)

396 d. (up to Whitsunday)

400 d. (up to Michaelmas)

404 d. (up to Christmas)

408 d. (up to Easter)

412 d. (up to Whitsunday)

416 d. (up to Michaelmas)

420 d. (up to Christmas)

424 d. (up to Easter)

428 d. (up to Whitsunday)

432 d. (up to Michaelmas)

436 d. (up to Christmas)

440 d. (up to Easter)

444 d. (up to Whitsunday)

448 d. (up to Michaelmas)

452 d. (up to Christmas)

456 d. (up to Easter)

460 d. (up to Whitsunday)

464 d. (up to Michaelmas)

468 d. (up to Christmas)

472 d. (up to Easter)

476 d. (up to Whitsunday)

480 d. (up to Michaelmas)

484 d. (up to Christmas)

488 d. (up to Easter)

492 d. (up to Whitsunday)

496 d. (up to Michaelmas)

500 d. (up to Christmas)

504 d. (up to Easter)

508 d. (up to Whitsunday)

512 d. (up to Michaelmas)

516 d. (up to Christmas)

520 d. (up to Easter)

524 d. (up to Whitsunday)

528 d. (up to Michaelmas)

532 d. (up to Christmas)

536 d. (up to Easter)

540 d. (up to Whitsunday)

544 d. (up to Michaelmas)

548 d. (up to Christmas)

552 d. (up to Easter)

556 d. (up to Whitsunday)

560 d. (up to Michaelmas)

564 d. (up to Christmas)

568 d. (up to Easter)

572 d. (up to Whitsunday)

576 d. (up to Michaelmas)

580 d. (up to Christmas)

584 d. (up to Easter)

588 d. (up to Whitsunday)

592 d. (up to Michaelmas)

596 d. (up to Christmas)

600 d. (up to Easter)

604 d. (up to Whitsunday)

608 d. (up to Michaelmas)

612 d. (up to Christmas)

616 d. (up to Easter)

620 d. (up to Whitsunday)

624 d. (up to Michaelmas)

628 d. (up to Christmas)

632 d. (up to Easter)

636 d. (up to Whitsunday)

640 d. (up to Michaelmas)

644 d. (up to Christmas)

648 d. (up to Easter)

652 d. (up to Whitsunday)

656 d. (up to Michaelmas)

660 d. (up to Christmas)

664 d. (up to Easter)

668 d. (up to Whitsunday)

672 d. (up to Michaelmas)

676 d. (up to Christmas)

680 d. (up to Easter)

684 d. (up to Whitsunday)

688 d. (up to Michaelmas)

692 d. (up to Christmas)

696 d. (up to Easter)

700 d. (up to Whitsunday)

704 d. (up to Michaelmas)

708 d. (up to Christmas)

712 d. (up to Easter)

716 d. (up to Whitsunday)

720 d. (up to Michaelmas)

724 d. (up to Christmas)

728 d. (up to Easter)

732 d. (up to Whitsunday)

736 d. (up to Michaelmas)

740 d. (up to Christmas)

744 d. (up to Easter)

748 d. (up to Whitsunday)

752 d. (up to Michaelmas)

756 d. (up to Christmas)

760 d. (up to Easter)

764 d. (up to Whitsunday)

768 d. (up to Michaelmas)

772 d. (up to Christmas)

776 d. (up to Easter)

780 d. (up to Whitsunday)

784 d. (up to Michaelmas)

788 d. (up to Christmas)

792 d. (up to Easter)

796 d. (up to Whitsunday)

800 d. (up to Michaelmas)

804 d. (up to Christmas)

808 d. (up to Easter)

812 d. (up to Whitsunday)

816 d. (up to Michaelmas)

820 d. (up to Christmas)

824 d. (up to Easter)

828 d. (up to Whitsunday)

832 d. (up to Michaelmas)

836 d. (up to Christmas)

840 d. (up to Easter)

844 d. (up to Whitsunday)

848 d. (up to Michaelmas)

852 d. (up to Christmas)

856 d. (up to Easter)

860 d. (up to Whitsunday)

864 d. (up to Michaelmas)

868 d. (up to Christmas)

872 d. (up to Easter)

876 d. (up to Whitsunday)

880 d. (up to Michaelmas)

884 d. (up to Christmas)

888 d. (up to Easter)

892 d. (up to Whitsunday)

896 d. (up to Michaelmas)

900 d. (up to Christmas)

904 d. (up to Easter)

908 d. (up to Whitsunday)

912 d. (up to Michaelmas)

916 d. (up to Christmas)

920 d. (up to Easter)

924 d. (up to Whitsunday)

928 d. (up to Michaelmas)

932 d. (up to Christmas)

936 d. (up to Easter)

940 d. (up to Whitsunday)

944 d. (up to Michaelmas)

948 d. (up to Christmas)

952 d. (up to Easter)

956 d. (up to Whitsunday)

960 d. (up to Michaelmas)

964 d. (up to Christmas)

968 d. (up to Easter)

972 d. (up to Whitsunday)

976 d. (up to Michaelmas)

980 d. (up to Christmas)

984 d. (up to Easter)

988 d. (up to Whitsunday)

992 d. (up to Michaelmas)

996 d. (up to Christmas)

1000 d. (up to Easter)

1004 d. (up to Whitsunday)

1008 d. (up to Michaelmas)

1012 d. (up to Christmas)

1016 d. (up to Easter)

1020 d. (up to Whitsunday)

1024 d. (up to Michaelmas)

Charge of the Leet.

Judgment.

Pheasants
and Par-
tridges.
23 El. 10.

Hawking
or Hunt-
ing with
Spaniels,
&c.

Tracing of
Hares.
14 H. 8.

Breaking
of Ponds.

Eves-drop-
pers.

Musters.
4 & 5 P.
& M. c. 3.

Horses in-
fected.
32 H. 8. c. 13.

50. You shall also enquire if any have destroyed any Pheasants or Partridges, with any Nets or other Devises in the Night-time.

51. Or if any do hawk or hunt with Spaniels, where Corn grows, except it be his own Ground.

52. You shall enquire if any do destroy or kill Hares by tracing in the Snow, with a Dog or otherwise.

53. You shall likewise enquire if any do break any Pond, Pool, or other Pits, wherein the Lord of the Leet hath any Fish, to the Intent to destroy and steal them away.

54. You shall enquire of Eves-droppers, such as stand under Walls or Windows, by Night or Day to hear News, and to carry it to others, to make Strife and Debate amongst their Neighbours, these are evil Members of the Commonwealth, and here enquirable.

55. You are to enquire if any refuse to go to muster, or absent himself without any lawful Impediment.

56. You shall enquire if any have put to Pasture any stoned Horses, Gelding or Mare infected with the Scab, or other infectious or contagious Disease, into or upon any Common or common Fields.

*For every Pheasant 20 s. and
every Partridge 10 s. to be paid
within 20 Days after Conviction,
or one Month's Imprisonment.*

*The Penalty is 40 s. to the
Party vexed.*

*The Penalty to the Lord of the
Leet for every Hare is 6 s. 8 d.*

*He shall pay to the Lord tre-
ble Damages, suffer Imprisonment
for three Months, and find Sure-
ties for his Good Behaviour for
seven Years.*

*Such Offenders are punishable
according to the Discretion of the
Jury.*

*The Penalty is 40 s. and ten
Days Imprisonment.*

*The Penalty to the Lord of the
Leet (for every such Horse infec-
ted) is 10 s.*

Charge of the Leet.

Judgment.

57. You shall likewise enquire if Constables have been diligent in seeing the Peace kept, and observed Watch and Ward, from the Day of the Ascension until Michaelmas Day, every Night from the setting of the Sun, until its rising. 13 E. I. c. 4. and if they have been remiss in any Thing touching their Oath, it is presentable.

For such Neglect the Constables Watch and are fineable according to the Day of the creation of the Town. 13 Ed. 1. Stat. de Winton.

Enquire the like of all the rest of the Officers, according to the Places they are in, as the Tithingman, Surveyors of the Highways, Searchers and Sealers of Leather, &c.

No Person shall make any Barly-Malt, (except in June, How long July and August) but it shall have in making thereof, wiz. in Malt shall the Fat, Floor, steeping and drying three Weeks at least, be in and in the aforesaid three Months 17 Days at least, under which Time it cannot be well made; on Pain of forfeiting for every Quarter 2 s. to the King and Informer, to be recovered by Action, Bill, Plaintiff or Information, &c.

No Person shall mingle any Malt not being well-made, or Mingle made of Mow-burnt or spired Barly with other good Malt, good Malt and so put it to Sale, Penalty 2 s. a Quarter *ut supra*, with bad.

None shall put to Sale any Malt not well trodden, rubbed, and fanned, whereby there may be fanned half a Peck of Duff ^{Malt nor} out of a Quarter, or more, Penalty 20 d. a Quarter, to be recovered ^{well fanned.} *ut supra*.

Justices in Sessions and Stewards of Leets have Power to enquire, hear and determine as well by Presentments of twelve Men, as Information of two honest Witnesses, of all Offences aforesaid, as well for the King as Party prosecuting, causing the same to be presented.

Bailiffs and Constables may search, and finding Malt ^{contrary to} Searching, *ut supra*, may by the Advice of a Justice of the Peace, cause the same to be sold under the common Price.

This Statute does not extend to those who make Malt for themselves.

These Presentments must be in one Year after the Offence committed.

Charge of the Leet.

Judgment.

Treasure
Trove.
&c.

59. You shall also enquire of Treasure-Trove, viz. Treasure found within the Precincts of this Leet, either within or above the Ground, the Hiders not being known to any Man.

It appertains to the Lord of the Leet.

Waifs,
Estrays,
&c.

60. You shall likewise enquire of all Estrays and Waifs, as if there be any Horses, Mares, or other Cattel or Swans, that have come within the Jurisdiction, and remained there a Year and a Day, and not claimed, these are Estrays.

The Lord may have them by Prescription.

And Waifs are Cattle stoln, and waved out of the Possession of him that stole them, as a Thief being pursued with Hue and Cry to save himself doth relinquish them, they are called by the Civilians, *bona derelicta*.

The Waifs appertain to the King, unless the Lord have them by Grant in his Charter.

But not to charge your Patience with Prolixities; if there shall be any other Matter come to your Knowledge, omitted in the Charge, and fitting to be presented, you shall enquire and present it with the rest; and also the Names of such Persons as you chuse for Officers for the ensuing Year.

Then after the Charge is concluded, the Steward shall command the Crier to make Proclamation, and after Proclamation made three Times, the Steward shall say;

- If any can inform the Steward or this Inquest of any
- Treason, Petty-Treason, Felony, Petty Larceny, Purp-
• sture, breaking of Ponds, or of Rescous, or of any other
- Thing acted against the Peace, or of any Misdemeanor of
- any Officer, or other Person here, or of any Waif or Stray.
- Treasure found, Mortmain, or of any other Thing here
- to be enquired of, come into Court and you shall be heard.

If any come in, and appear, let him be sworn thus:

- The Evidence that you shall give to this Inquest shall be
- the Truth, the whole Truth, and nothing but the Truth:
- So help you God, &c.

Then

Then let the Steward say to the Jury,

' Go together, and enquire of the Matters of your Charge,
and when you are agreed, I shall be ready to take your
Presentments.

Then adjourn the Court by Proclamation, until after Dinner in this Manner :

' All Manner of Persons that have any more to do at this Court, may for the present Time depart, and appear here again at one of the Clock in the Afternoon.

After your Return from Dinner, call the Court by Proclamation, and after Oyes three Times, say,

' All Manner of Persons that were adjourned over until one of the Clock, or have any Thing more to do at this Court, let them come into Court and give their Attendance, as they will answere the contrary at their Peril.

Then take the Presentments of the Jury, if they be there ready with them ; otherwise give them a Day to bring them in, and adjourn the Court till then. At the Day call the Court. And then call the Jury, every Man by his Name, and if they all appear, take their Presentments, and ask them if they be all agreed ; if they say yes, then ask them if they be content that their Presentments shall be altered in Form ; if they grant it, then take them, read them, and amend the Form, if need require ; see that they be brought under their Hands and Seals for the Steward's Warrant.

Then discharge the Court with Proclamation, command the Cryer to say Oyes three Times, and say,

' All Manner of Persons that have appeared, and have Adjourned any Thing more to do at this Court-Leet holden here this Day, let them come forth, and they shall be heard, otherwise they may depart, and are discharged of their Attendance, and are to keep their Day again upon a new Summons.

In Kel. Rep. fol. 141. there is a Custom alledged, that two Men within the Provost might present the Articles of the Leet, but calling in his reading upon the Statute of Sessors doubteth of such Presentment, though it hath a Custom to strengthen it.

A Precedent of the Roll of a Court-
Leet, with great Variety of Pre-
sentments and Orders.

*Vetus franc. pleg. ibidem tent. die Jovis, die, &c.
anno Regni, &c. Dei gratia Magnæ Bri-
tannia, Francia & Hibernia Regis fides de-
fensoris, &c.*

Esson.

Robertus Martin per Iohannem Style eßon. de commun. & iſſint
les aut. eſſon.

*Jur. pro
Dom. Reg.*

Johannes Doe,
Richardus Roe, *Jur.*
Johannes Den,
Willielmus Fen,
Willielmus Neile,
Johannes Snell, *Jur.*
Willielmus Riggs,
Thomas Riche,

Johannes Hie,
Thomas Pie,
Johannes Myles,
Thomas Gyles,
Richardus Cooke,
Johannes Turke,
Richardus Leake,
Johannes Peake.

Præsent pro Imprimis, *Jur. pred.* dicunt super eorū sacramentū, quod R. S. Rege Petis &c. apud J. infra jurisdictionem hujus Curie ut Feli Dom. Reg. censum angelos aureos & trecent. grossos falso & felonice excudebat & fabricabat (literis parentibus Dom. Reg. inde prius non obtinuit) contra pacem dicti Dom. Reg. nunc coronam & dignitatem suam ac contra formam Statuti in hujusmodi casu edit. & provis.

*Felonie
Combur.
measur.*

Item, *Præsent.* quod quidam T. de J. pred. Yeoman, tali dicit, &c. apud J. infra jurisdictionem hujus Curie, vi & armis, &c. voluntarie & felonice ex malitia sua præcogitata domum cuiusdam J. S. combusit contra pacem Dom. Reg. ideo præceptum est ballivo seipse omnia terras & teneientia bona & catasta sua, ut respondeat de eisdem Domino hujus Manerii.

Item, Præsent. quod W. P. de J. præd. Labourer, tali die, Felon. &c. apud J. infra jurisdictionem hujus Curie vi & armis, &c. ac contra pacem clausum cujusdam, &c. apud J. præd. fregit & intravit, & unam Tunicam byneam vocatur Satten, coloris nigri, de bonis & catalis præd. &c. adiunc & ibidem invent. felonice cepit & asportavit. Ideo preceptum est ballivo, &c.

Item, Præsent. quod W. S. de J. præd. Yeoman, infra Juris- Accessory, dictiorem hujus Curie consultavit, instigavit, procuravit, confortavit & abestorvit quandam L. M. &c. unam vaccam coloris nigri, pretii, &c. de bonis & catalis cujusdam, &c. adiunc & ibidem invent. felonice furari, capere & abduere. At præd. L. virtute consultationis, instigationis, procurationis, confortationis & abbettationis præd. &c. prædictam vaccam, tali die, &c. anno, &c. felonice furatus fuit, cepit & asportavit.

Item, Præsent. quod A. B. de J. præd. Yeoman, tali die, &c. Rape. apud J. infra Jurisdictionem hujus Curie clausum & domum cujusdam, &c. fregit & intravit, & in quandam Katharinam, &c. filiam, &c. in pace Dei & Dom. Reg. existens. insultum fecit & ipsam vi & armis adiunc & ibidem contra voluntatem suam rapuit, & eam carnaliter cognovit contra pacem, &c.

Item, Præsent. quod B. D. de J. præd. Yeoman, tali die, &c. Felon in- apud J. infra jurisdictionem hujus Curie, circa horam nonam in nocte fregit me- ejusdem diei, domum & mansuem cujusdam, &c. ut felo Dom. Reg. son. fregit & intravit, ea intentione ad spoliandum præd. &c. & sex angelos aureos de bonis & catalis præd. &c. adiunc & ibidem in quadam cista existens. felonice cepit & asportavit contra pacem, &c.

Item, Præsent. quod E. F. de J. præd. Labourer, tali die, &c. Roberia. apud J. infra jurisdictionem hujus Curie vi & armis ac contra pacem &c. in quandam T. D. apud, &c. infra jurisdictionem hujus Curie in regia via ibidem in pace Dei & Dom. Reg. existens. insultum fecit & ipsum T. D. adiunc & ibidem spoliavit & sexdecem grossos argenteos, & unum angelum aureum de bonis & catalis præd. T. D. in quadam marsupio suo adiunc & ibidem existens. a persona ipsius T. felonice cepit & aspertavit, contra pacem Dom. Reg. coronam & dignitatem suas, &c.

Item, Præsent. quod præd. T.D. existens spoliat. invavit magnum Hutesium butesum & exclamatio. & præd. E. F. tanquam felon. dict. Dom. Reg. dict. die & anno in præd. loco ubi sic spoliat. fuit recenter insequabarur, usque ad præd. villam de, &c. & quod nullus inhabitans ibid. præd. felonem super butesum præd. insequebatur & sic præd. felo evasit in

dicitur Dom. Reg. contemptum, ac contra formam Statuti de Winton
in hujusmodi casu edit. & provis. ideo predicta villa de, &c. in misericordia, &c.

Fugam
fecit.

Item. Præsent. quod E. L. de J. præd. Yeoman, tali die & anno,
&c. apud J. infra jurisdictionem hujus Curie quendam spadonem coloris
albi, precii, &c. de bonis & catallis cuiusdam, &c. in communione
campo ibidem existens felonice suratus fuit, cepit & abduxit. Et quod
præd. E. L. pro felonie præd. se retraxit & effugit. Ideo præceptum
est ballivo scilicet duas voces de bonis & catallis præd. E. L. tanguam
eſtibet. & Domino foriſat. Et quod Salvo custodianus ad usum Dom.
&c. vel sic, ad usum Reg.

Escape.

Item. Præsent. quod cum quidam B. R. de J. præd. Yeoman,
capt. fuit & arrestat. pro suspicione cuiusdam felonie, & in cippis posit.
quidam J. B. de J. præd. Labourer, tali die & anno, &c. apud J.
præd. præd. cippis vi & armis ac felonice fregit, & præd. B. R. ad-
iunxit & ibidem evadere & ad largum ire permisit contra pacem, &c.
ideo præceptum est, ut prius, &c.

Felon.

Item. Præsent. quod T. I. de J. præd. Yeoman, tali die, &c.
apud J. infra jurisdictionem hujus Curie unum vitulum pretii, &c.
de bonis & catallis cuiusdam J. B. adiunxit & ibidem invent. felon. cepit
& asport. Et quod W. Q. ballivus manerii præd. tali die & anno, &c.
apud J. præd. præd. T. I. pro suspicione felonie præd. arrestavit, &
quod W. F. de J. præd. Labourer, vi & armis, &c. apud J. præd.
dicitur die & anno in præd. W. Q. in pace Dei & Dom. Reg.
existens. insult. fecit & præd. T. I. in custodia præd. W. adiunxit &
ibidem existens. felonice cepit, arripuit & resuscit. & ad largum ire
permisit contra pacem, &c. ideo præceptum est ut supra, &c.

Felon
columbar.

Item. Præsent. quod A. B. de J. præd. Yeoman, tali die & anno,
&c. apud J. infra jurisdictionem hujus Curie circa horam primam
ix nocte ejusdem dies, quoddam columbare cuiusdam, &c. fregit &
intravit, & quadraginta columbas precii, &c. de bonis & catallis
præd. &c. a domo ejusdem, &c. felonice cepit & asportavit contra
pacem, &c. Ideo præceptum est.

Felon
Domus do-
mest.

Item. Præsent. quod J. W. de J. præd. generosus, tali die, &c.
apud J. infra jurisdictionem hujus Curie quandam damam domesticam
& gerentem companionam circa collum suum pretii. &c. de bonis & ca-
tallis cuiusdam, &c. adiunxit & ibidem invent. felonice cepit & aspor-
tavit contra pacem, &c. Ideo præceptum est ballivo ut supra, &c.

Item,

Item, Present, quod quidam J. S. de J. præd. Yeoman, tali die, ^{Vener. de} &c. apud J. infra jurisdictionem bujus Curie circa horam primam in trans
nolle ejusdem diei quandam tritum ejusdem, &c. fregit & intravit frati.
& decem pisces vocatos (Pikes) præd. &c. de bonis & catallis præd.
&c. a tritico ejusdem, &c. adiunxit & ibidem felonice cepit & aspor-
tavit contra pacem, &c. Ideo, &c.

Item, Present, quod P. J. de J. præd. Yeoman, tali die, &c. ^{Petit Lar-}
clausum ejusdem, &c. apud J. præd. fregit & intravit & manu
ancile vocatum (a Towel) pretio vi d. de bonis & catallis predicti.
&c. adiunxit & ibidem inventi. felonice cepit & asportavit. Ideo præ-
septum est ballivo seisiere omnia bona & catalla sua in manus Dom.

Item, Present, quod W. B. & T. W. de J. præd. carnifices tali ^{Vend. in}
die, &c. infra præcincti. vñs franc. pleg. posuerunt carnes suas & ^{Camiterio.}
alia venalia in Ecclesia & Cemiterio de J. præd. predicti. ad vend.
eisdemque, ubi diuina seruitia celebrantur, & humana corpora sepelian-
tur, vendiderunt contra formam statuti de Winton in bujusmodi
casu editi & provisi ideo ipsi in misericordia, &c.

Item, Present, quod quedam M. S. veniebat infra jurisdictionem ^{Catallage}
bujus vñs franc. pleg. & hic attulit quedam bona & catalla per ipsam ^{avivit.}
surata, videlicet, unum indutum linum precii, &c. & diversa
alia vestimenta anglie (one Smock, one Petticoat and one Shirt)
que omnia prædicta valent xx s. & non amplius, & que omnia &
singula hic per præd. Mallata fuerunt. Et eadem M. hic infra jurisdictionem ^{Catallage}
bujus Manerii illa wauavit, reliquit & aufugit per quod omnia bona & catalla præd. pervenerunt Domino istius Manerii super
quod preceptum fuit ballivo seisiere in manus Domini tanquam escheat.
& Domino farisfact. & sic fecit, & bona & catalla præd. fuerunt
deliberata Domino in ista Curia.

Item, Dicunt quod dant Domino de certo pro communi fine ad hunc ^{Communis}
diem ex antiquis consuet. vi s. viii d.

Item, Present, super eorum sacramentum quod Johannes Wigge, ^{Decen. qui}
iii d. ^{iv d.}
Richard Wrenne, & Jo. Williams sunt resiantes infra præcinct. ^{sec. defalt.}
vñs franc. pleg. præd. & ad hunc diem fecerunt defaltam. Ideo qui-
libet eorum in misericordia, ut patet super eorum capita.

Item, Present, quod Richard Wrench, William Finch, ^{Non j. sr.}
ii d. ^{in y m. s.}

R. Bettes & Wishel Gybey inhabitaverant infra præcinct. bujus
vñs franc. pleg. per spatium unius anni & diei & amplius, & non ju-
rarentur Dom. Reg. pro legiantia. Ideo quilibet corum in misericordia,
prout patet super eorum capita.

Nocum.
aqua.

Item, Præsent. quod R. C. de J. præd. Yeoman, diversit com-
munitum cursum cuiusdam rivuli ducent. per domum cuiusdam T. H. ex-
tra rectum cursum quo solebat currere. Ideo præceptum est ei dimittere
in suo recto pristino cursu citra festum, &c. sub pana. &c.

Nocum.
frondes.

Item, Præsent. quod est quedam sepes de magna erastudine, &
quod frondes inde pendunt ultra venellam uoatam (Kinslanc) ad no-
cumentum carriag. ultra eandem venellam carriand. in defectu W. G.
ideo præceptum est ei succidere sive amputare illas citra festum, &c.
sub pana, &c.

Nocum.
guttura.

Item, Præsent. quod est quedam guttura ducens a domo frue coquina
T. J. per quam sordida frue aqua fatosa a dist. equina est conducta in
regiam viam ad grave nocumentum Regia via & omnium carriag.
utra eandem carriand. per populum Dom. Reg. Ideo præceptum est ei
amovere sive obstopar. illi citra festum, &c. sub pana, &c.

Communis.
via.

Item, Præsent. quod communis via ducens per campum vocat. (le pre-
bend Field) est communis via ad ducend. & equitand. & sic usq; fuit
a tempore cuius contrarii memoria hominis non existit. Et quod porta
& pons existent. ultra ulteriorum pontem debenti est manuteneant. & custo-
dit. per terra tenent. & modo non sunt. Ideo præceptum est terra tenent.
eandem portam & pontem emendare & reficere ante festum sancti I.
Baptista prox. futur. sub pana, &c.

Nocum.
Merqui-
nium.

Item, Præsent. quod R. W. erexit quoddam stergulinum adversus
domum suam prope regiam viam ad nocumentum populi Dom. Reg.
Ideo præceptum est ei amovere & abseariare illi citra festum, &c. sub
pana, &c.

Nocum.
fossat.

Item, Præsent. quod est quoddam fossatum inscorat. & immundat. in
defectu B. S. ad nocumentum, &c. Ideo ipse in misericordia xli d. &
præceptum est ei escor. sive mundare illi citra festum, &c. sub
pana ii s.

Hospitatrix.

Item, Præsent. quod A. B. vidua est communis hospitatrix & recep-
meretricium triz mereiricum & mulierum male fama & conversations ad grave
nocumentum vicinorum.

Objurgat-
rix.

Item, Præsent. quod N. C. vidua est communis objurgatrix cum
vicinis suis & communis fratrix sepium, & ipsa non est de bona fama
sive gubernatione. Ideo ipsa in misericordia ut pater super, &c.

Item.

Item, Præsent. quod quidam A. B. serviens W. C. ballivi Domini, Transgr. us fuit deudens certa catalla cuiusdam R. G. usque parcum Domini ibidem impoerat. uenit quidam E. P. cum violentia magna in parcum præd. cum uno gladio pretii v s. Et adtunc & ibidem præd. A. B. percussit eum eodem gladio super caput ejus, & sic effudit sanguinem super eundem A. B. occasione cuius percusionis præd. B. cecidit ad terram quasi mortuus esset. Ideo præd. E. P. in misericordia, & affr. per capital. pleg. ad quinque solidos.

Item. Præsent. quod J. S. fecit affraiam infra jurisdictionem hujus Afraria. Curia & traxit sanguinem, ideo est in misericordia, iii s. iv d.

Item. Præsent. quod W. G. est constabular. & non est hic ad visum Constabul. franc. pleg. ad præsentand. id quod ad officium illud pertinet sed fecit de. defact. fali. Ideo est in misericordia ii s.

Item, Præsent. quod R. S. est gustator cervisiae, & non est hic Gustat. ad visum franc. pleg. ad præsentand. id quod ad officium illud pertinet, cervisiae. sed fecit defactam ideo est in misericordia ii s. defact.

Item, Præsent. quod R. B. & W. G. sunt communes apprecessores Communes & essent hic ad præsent. id quod ad officium illud pertinet & fecer. defact. faltam. Ideo ipsi in misericordia iii s. iv d. appre. defact.

Item, Præsent. quod B. R. & C. D. sunt scrutatores visual. & Scrutat. essent hic ad visum franc. pleg. ad præsentand. id quod ad officium illud visual. pertinet & fecer. defact. Ideo uterque eorum in misericordia ii s. auctat.

Item, Præsent. quod T. J. & W. J. sunt escratores vicorum. & Escrator. debent esse hic ad visum franc. pleg. & fecerunt defact. Ideo uterque vicorum eorum in misericordia vi s. defact.

Item, Præsent. super eorum sacramentum quod vicefimo die Maii Extrahur. anno regni Dom. nostr. Reg. Eliz. nunc vicefimo primo veniebat infra Dominum istud unus equus coloris (grey) de extrahatur. & remanet in custodia, &c. ad proclamand.

Item, Præsent. quod est unus pullus coloris (bay) etatis quatuor annorum sive plus qui veniebat infra dominium istud ut extrahura non die Septembri anno Regni dicti. Dom. Reg. vicefimo pretii xxv s. & remanet in custodia ballivi per spacium unius anni & unius diei post tres proclamationes per tres separal. dies fact. secundum formam Statuti. Ideo proprietas ejusdem pulli est in domino. Extrahur.

Item, Præsent. quod W. M. & R. B. sunt communes pistores hu- mani panis & per diversas vices pinsuerunt panem insalubrem, & Pistor. mis. fregerunt Assam. Ideo uterque eorum in misericordia ut paret super eorum capita.

Bra. min.

Item, Præsent. quod R. W. & J. D. sunt communites Brasiliæ cervisia & brasiliaveruni per diversas vires cervisiam insolubrem & fragerunt affl. Ideo uterque eorum in misericordia prout patet super eorum capita.

Tipul. mis.

Item, Præsent. quod T. W. & W. C. & eorum uxores sunt communites tipulatores cervisia & per illicitas mensuras vendiderunt cervisiam & fragerunt affl. Ideo uterque eorum in misericordia prout patet super eorum capita.

Pena posit.

Imprimis. Ordinat. est quod R. B. faciat & exforat. fassatum suum apud inferiorem finem de Great Hill continent. per estimationem viginti pertit. citro festum nativitatis sancti Johannis Baptista prox. fatur. sub pena pro qualibet pertita inde viii d.

Pena.

Idem, ordinat. et quod T. M. reformat & exponat quandam parcell. terræ ruper per ill. incrochiat. inter Walde-Lane & Peckam-Rye Common, ante festum omnium sanctorum prox. fatur. Sub pena pro qualibet pertita non reformat. atque exforat. xx d.

Pena.

Item, ordinat. est quod nullus permittat a veria suo videlicet boves vel voces suas transire & pascere super communiam hujus Domini, nec in venellis eidem maneria pertinens. absque custodia sub pena forisfact. Dom. per quemlibet eorum pro qualibet tempore ii d.

Pena.

Item, Ordinat. est quod W. J. adireat sterquilinium suum iacentem per regiam viam adversus dominum sacramente fest. Pasche prox. sub pena forisfact. Domino x s.

Pena.

Item, Ordinatum est quod J. F. faciat & mandentur pontem in clauso suo vocato (Great Colenhus) in via ducente de Illington ad Hodgesden sub pena forisfact. Domino x s.

Pena.

Item, Ordinat. est quod qualibet jugulet vel quod qualibet annulet porcos suos ante festum sancti Michaelis Archangeli proximi & eosdem servaret sic jugulatos sive annulatos. usque festum sancti Johannis Baptista tunc prox. sequen. sub pena forisfact. domino pro qualibet porco pro qualibet septimana iii s. iv d.

The Oath of the Steward.

YOU shall swear that you well and truly shall serve the Lord of this Manor of S. in the Office of Seward, and truly to set all Plaints, Actions, Proceses and Matters in the Courts to be holden before the Lord of this Manor, and by you or your sufficient Deputy, according to the Custom and Liberties of the said Manor, to be entred and recorded as they ought to be, after the best of your Cunning, Skill and Power, taking for the same your due Fees; and the Perquisites, Issues, Profits and Amerciaments of the same Courts, you shall justly and truly write, and yearly extract, for the laying and gathering thereof; and you shall truly and diligently do, and accomplish all other Things appertaining to your said Office after the best of your Knowledge, as near as God's Grace shall direct you. So help you God, &c.

The Oath of the Bailiff

YOU shall swear, that you shall well and truly serve our Sovereign Lord the King, and the Lord of this Leet, in the Office of Bailiff for this Year ensuing, and shall well and truly collect all Rents, Revenues and other annual Profits, as shall be chargeable, and issuing out to you. And that you shall make and give a lawful Account at the End of the same Year, and in every other Thing appertaining to your Office, well and truly to discharge yourself in your Year ensuing. So help you God, &c.

The Oath of the Constable.

YOU shall swear, that you well and truly shall serve our Sovereign Lord the King, in the Office of Constableness, and as Constable of this Town of S. for and during the space of one whole Year now next ensuing; you shall endeavour your self to the utmost of your Power, to set the publick Peace kept, and Watch and Ward observed and kept in this Town, as hath been accustomed, and as it ought to be: likewise you shall endeavour your self to learn and understand the Contents of the Statute of Winchester, and divers other Laws and Statutes of this Nation made for the Punishment of Rogues, Vagabonds and sturdy Beggars, haunting and resorting within the Precinct of your Office, and present the Offenders accordingly. Also you shall present all such Persons as do or shall play at any unlawful Games, according to the Statute in that Case made and provided. You shall also have Regard for the Maintenance of Artillery within your said Office, and that you shall do and accomplish to the utmost of your Power. So help you God, &c.

The Tithingman or Petty Constable's Oath is after the same Manner *mutatis mutandis*; only the Tithingman is sworn to attend on the Constable (if he be required) when he shall execute his Office.

Of the Afferer and his Oath.

BUT first let us enquire what he is, and from whence his Name is derived. Mysb. saith, that *Afferer* cometh of the old French Word *Afeurer*, which is to tax or fine, and in Latin they are called *Affidari*, as it were Men put in Trust and appointed to this Office, which do affirm upon their Oaths, what Penalty they think in their Conscience the Offenders have deserved; so that they may meet such as have committed

ted any Fault, which is arbitrarily punishable, and for which no express Penalty is prescribed by Statute. The Oath is as followeth :

You and either of you shall swear, that you will truly and indifferently tax, assess and affeer all such Amerciaments as are presented at this Court ; wherein you shall spare no Man for Love, Favour, Affection or Corruption, nor raise nor enhance upon any Man (of Malice) more grievous Amerciaments than shall be thought reasonable, according to the Quality of their Offence, and Faults committed, and not otherwise. So help you God.

The Oath of the Ale-taster.

YOU shall well and truly swear, that you shall well and truly serve our Sovereign Lord the King, and the Lord of this Leet, in the Office of Ale-taster, or Assizer of this Liberty or Hundred for this Year to come ; you shall duly and truly see from Time to Time, that the Bread to be sold be duly weighed, and that the same do contain such Weight, according to the Prices of Wheat, as by the Statute in that Behalf is provided : Likewise you shall have diligent Care, during the Time of your being in Office, to all the Brewers and Tiplers within your Office, that they and every of them, do make good and wholesome Ale and Beer for Man's Body, and that the same be not sold before it be assayed by you, and then to be sold agreeable to the Prices limited and appointed by the Justices of Peace ; and all Faults committed or done by the Bakers, Brewers or Tiplers, or by any of them, you shall make known and present the same at this Court, whereby due and condign Punishment may be inflicted upon them for their Offences accordingly ; and in every other Thing, you shall well and truly behave your self in the said Office for this Year to come. So help you God, &c.

A copy of the following Office of the Sheriff was sent
to the Office of the Sheriff of Bedfordshire in 1692.

bgs vnu flw moy rapt, neyl Ruffe, so radis ha uyl
as vnu emissons & vnu. Ha vnu. bgs vnu vnu vnu vnu

Of the Hayward, Beadle or Greve, and his Oath.

Hayward hath its Derivation from the French Word *Haye*, (i. e.) *syses*, a Hedge, and *Garde*, (i. e.) *custodia*, a Keeper of the Hedges. With us it signifies one that keepeth the common Herd of the Town; and yet one Part of his Office is to look that they break not the Hedges of the inclosed Grounds. He is called by the Latins *Bedellus*, (i. e.) *oppidi vel civitatis servus*.

You shall swear, that you shall well and truly serve our Sovereign Lord the King, &c. and the Lord of this Leet, in the Office of **Hayward**, Beadle or Greve for this ensuing Year; and you shall duly and truly execute all Amerciaments, and other Proceses to you directed from the Lord or Steward of this Court; and you shall present all Pound-breaches which shall be made within your Office; and also all Chattels, Strays and Waifs, and in every other Thing well and truly hold you in the same Office. So help you God, &c.

It is usual with the Lords to grant their Office of **Bailiwick** (taking good Secu cities) in this Manner.

A Grant of a Bailiwick.

To all to whom this present Writing shall come: A. B. of C. in the County of Y. sendeth greeting. Know ye, that I the said A. B. on the Fidelity, Circumspection and due Diligence of my beloved Servant E. F. to me and my Posterity hereafter to be done and performed, very much relying and confiding, have made, ordained, and by this my present Writing constituted the said E. F. of the Town, Manor or Lordship of S. in the said County of Y. Collector and Receiver of all and singular my Rents, Revenues, Fines, Amerciaments, and Escheats of Court-Leets, or Views of Frankpledge there:

And

and Court-Leet.

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And all other Profits by reason of the said Court-Leet, or View of Frankpledge, any Way arising, emergent or coming: To have, hold, exercise and occupy the said Office to the said E. F. by himself so long as he shall well behave himself towards me, and shall a true and just Account of his Receipts make unto me, and the same shall well and truly pay and satisfie. Taking of me for his yearly Wages 5*l.* at the Feasts, &c. by equal Portions, by mine own Hands, after his Account and full Payment at every half Year, and the Gifts, Rewards and Emoluments to the same Office lue and accustomed. In Testimony whereof, &c.

MANORIAL

COURT-Person

COURT-MOTES

OF

OF THE
ORIGIN and INSTITUTION
OF
MANORS
AND
Courts - Baron,
AND OF
CUSTOMS.

C H A P. I.

Of Manors.

Necessity
of enquiring
into the Nature
and Origin
of Manors.

AManor, Court-Baron and Copyhold have such mutual Respect and Reference one to the other, that the Knowledge of the one cannot be attained unto, unless the Sense of the other be truly apprehended; for the Manor is as the Body, and Copyholds certain Members of this Body, and a Court-Baron or Customary incident to both.

The *Saxons* were unacquainted with these Manors, yet in Effect they had Manors in Circumstance something varying, in Substance surely nothing differing from our Manors at this Day; they wanted neither Demesnes nor Services, the two material Causes of a Manor. Their Demesnes they termed Inlands, because these Lords kept them in their own Hands, and enjoyed them in their own Possessions; their Services they termed Utlands, because those Lands were in the Manu-rance and Occupation of certain Tenants, who in Consideration of the Profits arising out of those Lands, were bound to perform unto their Lords certain Duties and Services. Their Demesnes were of two Sorts, and their Services likewise were of two Sorts.

One Sort of their Demesnes were termed Bockland, because Bockland, they passed by Book; and they in Effect differed nothing from our Freehold Lands at this Day.

The other Sort of their Demesnes was termed Folklands, because they passed by Polls, and were claimed and challenged by the Tenants, not by any Assurance in Writings, but only by the Mouth of the People, *per vocem Populi*, and they in Effect differed in nothing from Copyhold-Lands at this Day.

Touching their Services, one Sort of their Services were *Servitiae libera*, which consisted most commonly in Render, as to pay yearly such a Rent; or in User, as where the Lord reserved Common for his Cattle; or in Prender, as where the Lord reserved three Shillings, and four Loads of Eftovers for Fuel to be taken yearly in his Tenants Grounds.

The other Sort of Services were *Servitiae villana*, which consisted altogether in Feasance; as to scour the Lord's Ditches, *villana*. to tile his Houses, to thatch his Barns, or such like.

Did the Lords transfer their Bocklands, that is, their Freehold Lands, they would never reserve villain Services; did they transfer their Folk-Lands, that is, Copyhold Lands, they would never reserve free Services; but still they suited their Services according to the Nature of the Land. The Reason I gather was this: In those Days none but Men of good Account and Reckoning enjoyed the said Bocklands, whereas Folk-lands were in the Hands of Men of meaner Sort and Condition, and therefore had not the Lord's Care been extraordinary in reserving apt Service, they should have much wronged their Tenants. Thus much Lambard verifieth, saying, *Terra ex scripto fuit hereditaria, libera, atque immunita; terra vero sine scripto officiorum quadam servitute fuit obligata: priorem plerunque nobiles atque ingenui, posteriorem vero rustici fere & pagani possidebant.* Lambard termeth the Bocklands terras liberas atque immunes; non quod ab omnibus servitiiis fuerint liber & aut immunes, sed quod ienentes ipsi fuerunt liberi, & servitiiis tantum liberis onerari.

The Origin
of Manors.

How in
the Saxon
Time.

Folklands
are the
Lands of
their Peo-
ple or
Slaves.

The Ser-
vices re-
served, ser-
vitiae, libera
twofold.

Courts Baron.

The Power the Lords originally had over the Copy-holders. For, as I conjecture, in the Saxons Time (sure I am in the Normans Time) those Copyholders were so far subject to the Lord's Will, that *corum tenentes compellere & intemperie pro voluntate Domini posse resumere & revocari*; but this is now otherwise; and if the Copyholder perform his Services, the Lord cannot eject him lawfully; and if he do, the Copyholder may have Redress by Action of Trespass at Common Law, or a Bill in Equity. *Coke's Compleat Copyholder*, Sect. 1, 2, 3, 4, 5, 6, 7, 8.

But 'tis otherwise at this Day.

But to come nearer our own Times, leaving the curious Reader to consult Sir Henry Spelman's Treatise of Tenures, we may here observe the Origin of these Tenures amongst our Norman Ancestors, which cannot be better express'd than they are by Lord Bacon in the following Terms.

The Reason why all Land is holden of the Crown immediately, or by mesue Lords, is this,

The Origin of Males, as we see them now amongst the Normans. The Conqueror got by Right of Conquest all the Land of the Realm in his own Hands in Demesne, taking from every Man all Estate, Tenure, Property and Liberty of the same, (except Religious and Church-Lands, and the Lands in Kent) and still as he gave any of it out of his own Hands, he reserved some Retribution of Rents or Services, or both, to him and his Heirs, which Reservations are what is called the Tenure of Lands, in which Reservation he hath four Institutions exceeding politick, and suiting the State of a Conqueror.

First, Finding his People to be Part Normans, and Part Saxons, he bent himself to conjoin them by Marriages in Amity, and for that Purpose ordained, That if those of his Nobles, Knights and Gentlemen to whom he gave great Rewards of Lands, should die, leaving their Heirs within Age, a Male within twenty one, and a Female within fourteen Years, and unmarried, then the King should have the bestowing such Heirs in Marriage, in such a Family, and to such Persons as to him should seem meet.

The second was, to the End that his People should be preserved in Warlike Exercises, and able for his Defence; wherefore he gave any good Portion of Lands, that might make the Parties of Ability or Strength, he withal reserved this Service, that that Party and his Heirs having such Lands, should keep a Horse of Service continually, and e rve upon him himself when the King went to the Wars; or else having Impediment to excuse his own Person, should find another to serve in his Place; which Service of Horse and Man was a Part of that Tenure called Knight-service.

But if the Tenant himself were an Infant, the King wa sto hold this Land himself until he came unto full Age, finding him Meat, Drink, Apparel, and other Necessaries, and finding a Horse and Man with the Overplus to serve in the Wars, as the Tenant himself should do if he were at full Age.

But if this Inheritance descend upon a Woman that cannot serve by her Sex, then the King is not to have the Lands, she being of fourteen Years of Age, because she is then able to have a Husband that may do the Service in Person.

The third Institution was, That upon every Gift of Land the King reserved a Vow and an Oath to bind the Party to his Faith and Loyalty. That Vow was called Homage; the Oath, Fealty; Homage is to be done kneeling, holding his Hands between the Knees of the Lord, saying in the French Tongue, *I become your Man of Life and Limb, and of earthly Honour.* Fealty is to take an Oath upon Book that he will be a faithful Tenant to the King, and do his Service, and pay his Rents according to his Tenure.

The fourth Institution was, That for recognizing of the King's County, by every Heir succeeding his Ancestor in those Knight-service Lands, the King should have primer Seisin of the Lands, which is one Year's Profit of the Lands, and until this be paid, the King is to have Possession of the Land, and then to restore it to the Heir, which was the very Cause of suing Livery, and that as well Where the Heir hath been in Ward as otherwise.

These before-mentioned are the Rights of the Tenure called Knight-service; the Conqueror instituted other Tenures *in capite* necessary to his Estate; as namely, he gave divers Lands to be holden of him by some special Service about his Person, or by bearing some special Office in his House, or in the Field, which have Knight-service, and more in them, and these are called Tenures by Grand Serjeanty. Also he provided upon the first Gift of Lands to have Revenues by continual Service of plowing his Land, repairing his Houses, Parks, Pales, Castles, and the like; and sometimes too a yearly Provision of Gloves, Spurs, Hawks, Horses, Hounds, and the like, which kind of Reservations are called also Tenures *in Chief* or *in Capite* of the King; but they are not by Knight-service, because they require no personal Service, but such Things as the Tenant may hire another to do, or provide for his Money. And this Tenure is called Tenure by Socage *in Capite*, the Word *Socagium* signifying a Plough; and what Lands were *antiquo Dominico Corone*, appeareth in the Records of the Exchequer, called the Books of Domesday. And the Tenants by ancient Demesne have many Immunities and Privileges at this Day that in ancient Times were granted unto those Tenants by the Crown, the Particulars whereof are too long to set down.

These Tenures *in Capite*, as well that by Socage, as the other by Knight-service, have this Property, that the Tenant cannot alien his Land without Licence of the King; if he do, the King is to have a Fine for the Contempt, and may seize the Land, and retain it till the Fine be paid. And the Reason is,

A a because

because the King would have a Liberty in the Choice of his Tenant, so that no Man shoud presume to enter into those Lands, and hold them (for which the King was to have those special Services done him) without the King's Leave; this Licence and Fine, as it is now digested, is easie and of Course.

By Example and Resemblance of the King's Policy in these Institutions of Tenures, the great Men and Gentlemen of this Realm did the like as near as they could; as for Example, when the King had given to them 2000 Acres of Land, this Party proposing in this Place to make his Dwelling, or (as the old Word is) a Mansion, or his Manor-house, did devite how he might make his Land a compleat Habitation to supply him with all Manner of Necessaries, and for that Purpose he would give of the uttermost Parts of those 2000 Acres, one hundred or two hundred Acres, or more or less, as he should think meet, to one of his most trusty Servants, with some Reservation of Rent to find a Horse for the Wars, and go with him when he went with the King to Wars, adding Vow of Homage and the Oath of Fealty, Wardship, Marriage, and Relief. This Relief is to pay five Pounds for every Knight's Fee; or after that Rate, for more or less, at the Entrance of every Heir; which Tenant so created and placed, was called Tenant by Knight-service, and not by his own Person; but of his Manors, of those he might make as many as he would. Then this Lord would provide that the Land which he was to keep for his own Use, should be plowed, and his Harvest shoud be brought Home, or his House repaired, his Park pal'd, and the like; and for that End he would give some lesser Parcels to sundry others, of twenty, thirty, forty or fifty Acres, reserving the Service of plowing a Quantity, or so many Days, of his Land, and certain Harvest Works or Days in the Harvest, or Labour, or to repair the Hous'e, Park, Pales, or otherwise, or to give him for his Provision, Capons, Hens, Pepper, Cummin, Roses, Gillyflowers, Spurs, Gloves, or the like, or to pay him a certain Rent, and to be sworn to be his faithful Tenant, which Tenure was called a Socage-Tenure, and is to this Day; howbeit most of the plowing and Harvest Services are turned into Rents. The Tenants in Socage at the Death of every Tenant were to pay Relief, which was not as Knight-service is, five Pounds a Knight's Fee; but it was and so is still, one Year's Rent of the Land, and no Wardship or other Profit to the Lord. The Remainder of the two thousand Acres to be kept to himself, which he used to manure by his Bondmen, and appointed them at the Court of his Manor how they should hold it, making an Entry of it into the Rolls of the Remembrances of the Acts of his Court; yet still in the Lord's Power to take it away. And therefore they were called Tenants at Will by Copy of Court-Roll, being in truth Bondmen at the Beginning, but having obtained

obtained Freedom of their Persons, and gained a Custom by Use of occupying their Lands, they now are called Copyholders, and are so privileged, that the Lord cannot put them out; and although by Custom some Copyholds are for Lives, one, two or three successively, and some Inheritances from Heir to Heir by Custom; and Custom ruleth these Estates wholly both for Widows Estates, Fines, Heriots, Forfeitures, and all other Things.

Manors being in this Sort made at the first, Reason was that the Lord of the Manor should hold a Court, which is no more than to assemble his Tenants together at a Time by him to be appointed, in which Court he was to be informed by Oath of his Tenants, of all such Duties, Rents, Reliefs, Wardships, Copyholds, or the like, that had happened unto him, which Information is called a Presentment, and then his Bailiff to seize and distrain for those Duties, if they were denied or withheld, which is called a Court-Baron; and herein a Man may sue for any Debt or Trespass under forty Shillings Value, and the Freeholders are to judge of the Cause upon Proof produced on both Sides, and therefore the Freeholders of these Manors, as incident to their Tenures, do hold by Suit of Court, which is to come to the Court, and then to judge between Party and Party in those Party-Actions, and also to inform the Lord of Duties, Rents and Services unpaid to him from his Tenants. By this Course it is discerned who are the Lords of Lands, such as if the Tenant dies without Heir, or be attainted of Felony or Treason, shall have the Land by Escheat.

All the military Tenures and Homage being now taken away *per 12 Car. 2.*, they will not be the farther Subject of our Enquiry here.

This Origin of Mauors will in some Measure determine our Judgment as to the Derivation of the Word, and it visibly best agreeing with the Opinion of those who derive it from the French Word *Manoir* (i. e.) a Mansion; tho' at this Day few living and residing continually (as they did in ancient Times) on their Estates, it seems rather to denote the Jurisdiction and Royalty than the Land or Seat.

Coke in his *Compleat Copyholder*, p. 52. &c. 56. divides the Causes (as he phrases it) of a Manor into two, viz. the efficient Cause, and the *Causa fine qua non*; he says, this is a Court-Baron, and that this no sooner fails, but the Manor fails to the Ground.

The efficient Cause, he says, is Custom; for a Manor must be by Prescription, and the Services by Continuance Time out of Mind, and therefore a Manor cannot be created at this Day by the King's Patent, it being an Hereditament consisting of many real Things and incorporated together, before Time of Memory; then *a multo fortiori*, a Subject cannot create one;

A 2 2 yet

Courts-Baron.

yet may he in some Sort enlarge a Manor by adding some Services unto it. 9 *Aff. pl. 24.* and *Br. tit. Tenure.* 26.

Necessity
of treating
of Customs.

All Manors and Courts-Baron then arising thus, and the Rights and Duties of the several Members thereof depending on Customs, as well as the Grant and Contract betwixt the Lord and his Tenant, the Nature, Force and Extent thereof must be here considered.

Customs are defined to be a Law or Right not written, which being established by long Use, and the Content of our Ancestors, hath been and is daily practised.

Custom,
Prescrip-
tion and
Usage, how
they differ.

Custom, Prescription and Usage, howsoever there be Correspondency amongst them, and Dependency one on the other, and in common Speech one of them is taken for another, yet they are three distinct Things. Custom and Prescription differ in this. 1. Custom cannot have any Commencement since the Memory of Man, but a Prescription may, both by the Common Law and the Civil: And therefore where the Statute of 1 H. 8. saith, That all Actions popular must be brought within three Years after the Offence committed; whosoever offendeth against this Statute, and doth escape uncalled for three Years, he may be justly said to prescribe an Immunity against any such Action. 2. A Custom toucheth many Men in general; Prescription this or that Man in particular: and that is the Reason why Prescription is personal, and is always made in the Name of some Person certain, and his Ancestors, or those whose Estate he hath; but a Custom having no Person certain in whose Name to prescribe, is therefore called and alledged after this Manner, In such a Borough, in such a Manor, there is this or that Custom. And for Usage, this is the efficient Causa, or rather the Life, of both; for Custom and Prescription lose their Being, if Usage fail.

Customs are either general or particular. General, which are Part of the Common Law, being current thro' the whole Commonwealth, and used in every County, every City, every Town, and every Manor. Particular, which are confined to shorter Bounds and Limits, and have not such Choice of Fields to walk in as general Customs have. These particular Customs are of two Sorts; either disallowing what general Customs do allow, or allowing what general Customs do disallow. As for Example-sake; by the general Customs of Manors it is in the Copyholder's Power to sell to whom he pleaseth; but by a particular Custom used in some Places, the Copyholder, before he can inforce his Lord to admit any one to his Copyhold, is to make a Profer to the next of the Blood, or to the next of his Neighbours ab origine Solis, who, giving as much as the Party to whom the Surrender was made, should have it; so on the other Side, by the general Custom of Manors, the passing away of Copyhold Land by Deed for more than

than for one Year without Licence is not warranted; yet some particular Customs in some Manors do it. So by the general Customs of Manors, Presentments, or any other Act done in the Leet, after the Month expired, contrary to the Statute of *Magna Charta* and 31 E. 3. are void; yet by some particular Customs such Acts are good.

The Way how to examine the Validity of a Custom. For our Direction in this Business, we shall do well to observe these six Rules, which will serve us for exact Trial.

1. Customs and Prescriptions ought to be reasonable; and therefore a Custom that no Tenant of the Manor shall put in his Cattle to use his Common *in campis seminatis*, after the Corn severed, until the Lord have put in his Cattle, is a void Custom, because unreasonable: For peradventure the Lord will never put in his Cattle, and then the Tenants shall lose their Profits. So if the Lord will prescribe that he hath such a Custom within his Manor, that if any Man's Beasts be taken by him upon his Demesnes Damage Beasant, that he may detain them until the Owners of the Beasts give him such Reompence for his Harms as he himself shall request; this is an unreasonable Custom; for no Man ought to be his own Judge.
2. Customs and Prescriptions ought to be according to common Right; and therefore if the Lord will prescribe to have of every Copyholder belonging to his Manor for every Court he keepeth a certain Sum of Money, this is a void Prescription, because it is not according to common Right; for he ought for Justice-sake to do it *gratis*. But if the Lord prescribe to have a certain Fee of his Tenants for keeping an extraordinary Court, which is purchased only for the Benefit of some particular Tenants, to take up their Copyholds and such like; this is a good Prescription, and according to common Right.
3. They ought to be upon good Consideration; and therefore if the Lord will prescribe, that whosoever passeth through the King's Highway, which lieth through his Manor, should pay him a Penny for passing; this Prescription is void, because it is not upon a good Consideration. But if he will prescribe to have a Penny of every one that passeth over such a Bridge within his Manor, which Bridge the Lord doth use to repair, this is a good Prescription, and upon a good Consideration. So if the Lord will prescribe to have a Fine at the Marriage of his Copyholder, in which Manor the Custom doth admit the Husband to be Tenant by the Curtesie, or the Feme Tenant in Dower of a Copyhold; this Prescription is good, and upon a good Consideration. But in such Manors where these Estates are not allowed, the Law is otherwise.
4. They ought to be compulsory; and therefore if the Lord will prescribe that every Copyholder ought to give him so much every Month to bear his Charges in Time of War, this Prescription is void. But to prescribe they ought to pay so much Money

for that Purpose, is a good Prescription. For a Payment is compulsory, but a Gift is arbitrary, at the voluntary Liberty of the Giver. 5 They ought to be certain; and therefore if the Lord will prescribe, that whosoever any of his Copyholders die without Heir, that then another of the Copyholders shall hold the same Lands for the Year following; this Prescription is void for the Incertainty. But if the Lord will prescribe to have of his Copyholders 2 d. an Acre Rent; this Prescription is certain enough. 6 They ought to be beneficial to them that alledge the Prescription; and therefore if the Lord prescribeth that the Custom hath always been within the Manor, that what Distress soever is taken within his Manor for any common Person's Cause, is to be impounded for a certain Time within his Pound; this is no good Prescription, for the Lord is hereby to receive a Charge and no Commodity. But if the Prescription goeth farther, that the Lord should have for every Beast so impounded a certain Sum of Money, this is a good Prescription. 1 Things gained by Matter of Record only cannot be challenged by Prescription; and therefore no Lord of a Manor can prescribe to have Felons Goods, Fugitives Goods, Deodands, and such like; because they cannot be forfeited until it appear of Record; but Waifs, Estrays, Wrecks, and such like, may be challenged by Prescription, because they are gained by Usage without Matter of Record. 2 A Custom never extendeth to a Thing newly created; and therefore if a Rent be granted out of Gavelkind Land, or Land in Borough English, the Rent shall descend according to the Course of the Common Law, not according to the Custom. If before the Statute of 32 H. 8. Lands were deviseable in any Borough or City by special Custom, a Rent granted out of these Lands was not deviseable by the same Custom: For what Things soever have their Beginning since the Memory of Man, Custom maintains not.

But these Customs have this strict Construction, because they tend to the Derogation of the Common Law; yet they are not to be confined to literal Interpretation: For if there be a Custom within any Manor, that Copyhold Lands may be granted in *Feodo similiis*, by the same Custom they are grantable to one and the Heirs of his Body, for Life, for Years, or any other Estate whatsoever; because, *Cui licet quod maius, non debet quod minus est non licere*. So if there be a Custom that Copyhold Lands may be granted for Life; by the same Custom they may be granted *durante viduitate*, but not *e converso*, because an Estate during Widowhood is less than an Estate for Life.

1. To prescribe in his Predecessors, as in himself, and all those whose Estate he hath.

2. To prescribe generally, not tying his Prescription to Place or Person; as where a Chief Justice prescribeth, that it hath been used that every Chief Justice may grant Offices; or where a Serjeant prescribeth, *Quod talis habetur consuetudo*, that Serjeants ought to be impleaded by original Writ, and not by Bill.

3. To prescribe in a Place certain.

4. To prescribe in the Name of another.

The first Sort of these Prescriptions a Copyholder cannot use, in Regard of the Imbecillity of his Estate: For no Man can prescribe in that Manner but only Tenants in Fee-simple at the Common Law.

The second Sort of these may be used sometimes by Copyholders in the pleading of a general Custom; but in alledging of a particular Custom a Copyholder is driven to one of the last, and, as Occasion serveth, he useth sometimes the one, sometimes the other. If he be to claim Common or other Profit in the Soil of the Lord, then he cannot prescribe in the Name of the Lord; for the Lord cannot prescribe to have Common or other Profit in his own Soil: But then the Copyholder must of Necessity prescribe in a Place certain, and alledge that within such a Manor there is such a Custom, that all the Tenants within that Manor have used to have Common in such a Place, Parcel of the Manor. But if he be to claim Common or other Profit in the Soil of a Stranger, then he ought to prescribe in the Name of his Lord, saying that the Lord of the Manor, and all his Ancestors, and all those whose Estate he hath, were wont to have a Common in such a Place for himself and his Tenants at Will, &c. Coke's *Compleat Copyholder*, 72.

C H A P. II.

Of Copyhold.

ALL the Law concerning Copyholds is either concerning the Thing demised by Copy, the Parties, or their Rights; we will therefore divide this Chapter into four Sections. In the two first we will consider what may be let by Copy, by and to whom; in the third, the Rights of the Lord and Duty of the Tenant; in the fourth and last, the Rights of the Tenants and Engagement of the Lord.

SECTION I.

What grantable by Copy, and of the Nature of such Estates.

What
grantable
by Copy.

Things that lie not in Tenure are not grantable by Copy; as Rents, Bailiwicks, Stewardships, Common in Gross, Advowsons in Gross, and such like; all which are incorporeal Hereditaments, and therefore no Rent can issue out of them, neither can they be held by any Manner of Service. But an Advowson appendant, a Common appendant, or a Fair appendant may pass by Copy, by reason of the principal Thing to which they are appendant; and generally what Things soever are Parcel of the Manor, and are of Perpetuity, may be granted by Copy, according to the Custom; as Underwoods growing upon the Manor, being Things of Continuance, (for after they are cut they will grow again *ex stipibus*) may well be granted by Copy; and so of Herbage or any other Profit of the Manor. A Mill, and generally any Thing that concerns Land may be granted by Copy of Court-Roll. *Co. Litt. 58. 4 Co. 31. 4 León. 241. &c. Coke's Compleat Copyholder 116.*

Things
once le-
ver'd are
not.

Wheresoever a Copyhold is become not demisable by Copy, either by the Act of the Lord, by the Act of the Law, or by the Act of the Copyholder himself, it is extinguished for ever, and is no more grantable by Copy.

Seyernce
by Act of
the Lord.

By the Act of the Lord: As if a Copyholder escheateth, and the Lord granteth away any Estate by Deed, this is an Extinguishment. So if he maketh a Feoffment upon Condition, and then entereth for Breach of the Condition; yet the Copyhold is extinguished, because once not demisable.

But if the Lord keepeth the Copyhold Lands for never so many Years, or granteth at Will; this destroys not the Copyhold, because it continueth ever demisable by Copy.

By Act of
Law.

By the Act of the Law: As if the Copyhold escheated be extended upon a Statute or Recognizance acknowledged by the Lord; or if the Feme of the Lord hath this Land assigned unto her for her Dower; although these Impediments be by the Act of the Law, yet because they are lawful, the Land can never after be granted by Copy.

Of the Co-
pyholder.

By the Act of the Copyholder himself: As if he accepteth a Lease for Years at the Common Law, either mediate or immediate from the Lord of the Copyhold; this is an absolute Extinguishment.

But if he accepteth a Lease for Years of the Manor, the Copyhold by this hath not Continuance; but this is no Extinction, because the Land continueth still grantable by Copy.

If a Copyholder with Licence make a Lease for Years to a Stranger, or without Licence maketh a Lease for Years to the Lord; the Copyhold is not hereby extinguished, and yet it is not demisable by Copy.

So if a Copyholder intermarrieth with a Feme Seigniores, this is a Suspension only of the Copyhold, no Extinction.

So if the Interruption be tortious, as the Lord be disseised, and this Disseisor dieth seised; or if the Land be recovered by false Verdict, or erroneous Judgment, and after the Land is re-continued; it is not extinguished, but may be granted arre by Copy: For *Non valer impedimentum quod de jure non fortitur effectum;* & *quod contra legem sit, pro infectio habetur.* Coke's Copyholder 170.

S E C T. II.

Of the Lord and Tenant, who may not make voluntary Grants of Copyholds, and to whom; and of Surrenders and Admissions.

IN voluntary Grants made by the Lord himself the Law As to personal De-fects in voluntary Grants. neither respecteth the Quality of his Person, nor the Quantity of his Estate: For be he an Infant, and so thro' the Tenderness of his Age insufficient to dispose of any Land at the Common Law; or *non compos mentis*, an Idiot, or a Lunatick, and so for Want of common Reason unable to traffick in the World; or an Outlaw in any personal Action, and so excluded from the Protection of the Law; or an Excommunicate, &c. and so restrained *ab omnium fidelium communione*, or at least *a Sacramentorum participatione*: notwithstanding these Infirmities and Disabilities, yet he is capable enough to make a voluntary Grant by Copy. For if a Feme Seigniores take Baron, and they two join in a voluntary Grant by Copy, this shall ever bind the Feme and her Heirs, and yet she is not *sui juris*, but *sub potestate viri*; because the Custom of the Manor is the chief Basis upon which stands the whole Fabrick of the Copyhold Estate.

The Quantity of the Lord's Estate is no more respected As to the Quantity of his Estate, if rightful. than the Quality of his Person: For if his Interest be lawful, be his Estate never so great or never so little, 'tis not material: For be it in Fee, or be it in Tail or Dower, or as Tenant

nant by Curtesie, for Life, or for Years, as Guardian, or as Tenant by Statute, or as Tenant by Elegit, or at Will; the least of these Estates is a sufficient Warrant to the Lord to grant any Copyhold escheated unto him, for as long Time as the Custom doth allow, the ancient Rents and Services being truly reserved; and these Grants shall ever bind them that have the Inheritance or Frank-tenement of the Manor, as well as for Offices granted for Life by the Chief Justice of the Common Pleas, whose Office is but at Will, shall ever conclude the succeeding Justice. The Reason of the Law is this. A Copyholder upon voluntary Grants made by Copy, doth not derive his Estate out of the Lord's Estate only; for then the Copyholder's Estate should cease when the Lord's Interest determineth; *Nam cessante primitivo, cessat derivatum:* But the Life of the Copyholder's Estate is the Custom of the Manor; and therefore whatsoever befalleth the Lord's Interest in his Manor, be it determined by the Course of Time, by Death, by Forfeiture, or other Means; yet if the Lord were *legitimus Dominus pro tempore*, how small soever his Estate was, that is enough. Coke's *Compleat Copyholder* 80. Co. Litt. 58. Mo. 147, & 236. 4 Co. 23. March 6. Cro. Eliz. 66. Cro. Jac. 55. & 9. God. 143. *Calthorpe's Readings* 48.

Where an Executor may.

Grants made by Executors, to whom one devises a Manor, that his Executors shall grant Copies for the Payment of his Debts; yet the Executor, though he hath no Estate in the Manor, may make Grants. Co. Litt. 58. Coke's *Copyholder* 88. See 4 Co. 23 & 24. Cro. Jac. 99.

And so if an Infant infeoff me of a Manor, though he may enter upon me at his Pleasure; yet Grants made by me by Copy before his Entry shall never be defeated by any subsequent Entry.

And the same Law is of Grants made by a Villain Purchaser of a Manor, before the Entry of the Lord; nor of Grants made after an Alienation in Mortmain, before the Lord paramount hath entred for a Forfeiture.

If a Lease be made for Years of a Manor, the Lease to be void upon Breach of a certain Condition, if the Condition be broken, and afterwards the Lessee before the Entry of the Lessor granteth Estates by Copy, these Grants shall never exclude the Lessor; for presently upon the Breach of the Condition, the Lease is void: But had the Manor been granted for Life, in Tail, or in Fee, I think the Law would have fallen out otherwise; for before Entry the Frank-tenement had not been avoided.

Grants by a Lord by Wrong, void against him that hath the Right.

If a Difensor of a Manor dieth seised, notwithstanding his Heir come in by ordinary Course of Descent, yet because the Tort commenced by his Ancestor is still inherent to his Estate, if any Copyhold Estate be granted by the Heir, it may be avoided by the Difensor immediately upon his Recovery, or upon

upon his Entry : And so if the Disseisor infeoff a Stranger to the Manor, notwithstanding the Feoffee come in by Title, yet no Grant made by him of Copyhold Land shall ever bind the Disseisor, no more than a Grant made by the Disseisor himself.

If Tenant in Tail of a Manor discontinueth and dieth, and after the Discontinuance granteth Copyhold Estates ; the Heir recovering in a Formedon in the Descender, may avoid these Grants : For though the Discontinuer come in under a just Title, yet his Interest being determined by the Death of the Tenant in Tail, the Continuance of the Possession is a Tort to the Heir, and Acts done by Tort-feasors, tending to the Disinheritance of the right Owners, Custom will never so strengthen, but they may be annihilated So if a Man seised of a Manor in Right of his Wife alieneth this Manor, and dieth ; any Grant made of Copyhold Estates after his Death may be avoided by the Feme upon her Entry, or upon her Recovery in a *Cui in vita.*

If a Manor be granted *pur autre vie*, and *Cestuy que vie* dieth, and the Grantee continueth still in the Manor, and maketh Grants by Copy, these shall not bind the Grantor of the Manor ; for immediately upon the Death of *Cestuy que vie* the Grantee was but a Tenant at Sufferance, and had no Manner of lawful Interest ; for a Writ of Entry *ad terminum qui præterit* lieth against him, as against a Deforceor.

And so if a Tenant for Life of a Manor maketh a Lease for Years of the same Manor, and dieth ; Copyhold Estates granted by the Lessee after the Death of the Tenant for Life are voidable by the first Lessor.

If a Lessee for Years of a Manor granteth a Copyhold in Reversion, and before the Reversion eschue, the Term is expired, the Grant is void.

If a Manor be granted upon Condition, and before the Condition is broken the Land is granted by Copy, then the Manor becomes forfeited, and the Feoffor entreth ; yet the Copyhold Estate remaineth untouched, because lawfully established by Custom.

If a Man seised of a Manor in Fee dieth seised, having Issue a Daughter, and his Wife being *privement enjoint* with a Son, the Daughter granteth Lands by Copy ; this Grant shall stand good against the Son, for the Daughter was *legitima Dominus pro tempore*. So if the Feoffee of a Manor, upon Condition to infeoff a Stranger the next Day maketh a voluntary Grant by Copy ; this shall bind, and yet his Interest was to have but small Continuance. If a Manor be granted with a Feme in Frank-marriage, and there is a Divorce had *causa praetronclus*, so that now the Interest of the Manor is granted to the Feme only, and by Relation the Marriage is void *ab initio* ; yet because the Baron was *legitimus Dominus pro tempore*, any

any Copyholders Estates granted before the Divorce remain good. So if a Man espouseth a Feme Seigniress under the Age of Consent, and after she doth disagree; though the Marriage by Relation was void *ab initio*, yet Copyholds granted before Disagreement shall never be avoided. Coke's Copyholder 26, &c. See Co. Litt. 58. Open 27. 2 Leon. 45. Poph. 71.

Of Grants
of Copy-
holds out
or the
Manor.

That a Lord may grant a Copyhold out of his Manor is undoubted, but whether the Steward of a Manor may, I find it a Question not well settled in our Books, unless it be where a Lord seised of two or more contiguous Manors, has Time out of Mind kept one Court for both, in which 'tis beyond Doubt he may; for though there is but one Court, yet they are in the Nature of two. 4 Co. 26, 27. W. Jo. 342.

Of the
Grantee of
a Copy-
hold.

The same Persons that are capable of a Grant by the Common Law, are capable of a Grant by Copy, according to the Custom of the Manor.

An Infant, a Man *non sana Memoria*, an Idiot, a Lunatick, an Outlaw, or an Excommunicate, may be Grantees of a Copyhold Estate.

The Lord himself may take a Copyhold to his own Use. One Joint-tenant may receive a Copyhold from the Hands of his Joint-companion, because it passeth by Surrender, not by Livery.

A Feme Covert may be a Purchaser of Copyhold, and this Purchase shall stand in Force until her Husband disagreeth. Nay, farther, a Feme Covert may receive a Copyhold Estate by Surrender from her Husband, because she cometh not immediately by him, but by mediate Means, *viz.* by the Admittance of the Lord according to the Surrender.

What Per-
son is suf-
ficient to
be a Copy-
holder.

Dyer Eliz.
301.

That Person is sufficient to be a Copyholder, who is of himself able, or by another, to do the Service of a Copyholder; as an Infant may be a Copyholder; for his Guardian and *prochein amie* may do the Service: But a Lunatick or Idiot cannot be a Copyholder, because they cannot do the Service themselves, nor depute any other, and the Lord shall retain the Copyhold of an Idiot. Galtorp fol. 52. Nor a Man cannot be a Copyholder unto a Manor whereof he himself is Lord, although he be but *Dominus pro tempore annorum*, or *in jure usoris*. Ibid.

What Persons soever are capable of a Grant by Copy, may well take by Attorney; not that the Lord shall be enforced to admit any one by Attorney, because upon every Admittance there is Fealty due by the Party admitted, which is a Duty so inseparably annexed to the Persons, that it cannot be discharged by Deputy, and therefore no Reason the Lord should be enforced to admit by Attorney; but if he will admit him, it standeth good. Coke's Copyholder Sect. 35.

Where the Lord is seised of a Copyhold, it passes out of him by Grant, as we have seen; but where one that is not Lord would transfer his Estate to another, it must be by a Surrender

der of the Copyholders, and Admission of the Lord, of which we now proceed according to the Rules of Method to treat.

This Word *Surrender* is *vocabulum artis*; and therefore where a Surrender is needful, if this one Word be wanting, all other Words used in ordinary Conveyances are uneffectual and insufficient to convey any Copyhold Estate; for if a Copyholder come into Court, and offer to pass his Copyhold by Words of Grant, of Gift, of Bargain or Sale, or such like, I doubt he will fail of his Purpose; for as he is tied to a singular Form of Assurance, so is he restrained to peculiar Words in his Assurance.

If a Copyholder will surrender to the Use of the Lord, the Interest of the Copyhold is sufficiently vested in the Lord immediately upon the Surrender, without any Admittance of the Lord, because the Lord cannot admit himself.

If the Lord will make a voluntary Grant of a Copyhold, no Surrender is requisite; for by the Admittance of the Lord according to the Custom the Copyholder is sufficiently settled in his Land without any other Ceremony.

If a Copyholder will surrender in Court to the Use of a Stranger, besides the Surrender the Admittance is requisite; and if the Surrender be made out of Court into the Hands of the Lord himself, which the general Custom will warrant, or into the Hands of the Bailiff or of two Tenants of the Manor, which by special Custom only is warrantable; besides a Surrender, two other Ceremonies are requisite, the one a true Presentment of the Surrender in Court by the same Persons into whose Hands the Surrender was made; the other is an Admittance of the Lord according to the Effect and Tenor both of the Surrender and Presentment.

A Surrender (whereby a subsequent Admittance the Grant is to receive its Perfection and Confirmation) is rather a manifesting of the Grantor's Intention, than of passing away any Interest in the Possession; for till Admittance the Lord taketh Notice of the Grantor as Tenant, and he shall receive the Profits of the Land to his own Use, and shall discharge all Services to the Lord; but yet the Interest is in him *but secundum quid*, and not absolutely; for he cannot pass away the Land to any other, or make it subject to any other Incumbrance than it was subject to at the Time of the Surrender: Neither in the Grantee is any manner of Interest invested before Admittance; for if he enter he is a Trespasser, and punishable in Trespass; and if he surrender to the Use of another, this Surrender is merely void, and by no Matter *ex post facto* can be confirmed.

A Copyhold Interest cannot be transferred by any other Assurance than by Copy of Court-Roll, according to the Custom.

No Word sufficient to convey a Copyhold Estate but the Word *Surrender*.

So here the Estate passes only by a Surrender.

Where Admittance is necessary.

Where a Presentment.

How it operates before Admittance.

Copyhold is transferable only by Surrender.

If Surrender.

If I will exchange a Copyhold with another, I cannot do it by an ordinary Exchange at the Common Law, but we must surrender to each other's Use, and the Lord admits us accordingly.

If I will devise a Copyhold, I cannot do it by Will at the Common Law, but I must surrender to the Use of my last Will and Testament, and in my Will I must declare my Intent.

If I am ousted by a Copyholder, a Release made to him is void, because it would be a Prejudice to the Lord; and besides there is no customary Right upon which the Release may inure: But a Release inuring by the Way of extinguishing, where no Prejudice accrueth to the Lord, will serve to drown a Copyhold Right; and therefore if I surrender out of Court upon Condition to the Use of *7 S.* and the Presentment is made absolute in Court, and the Admittance framed accordingly, this Admittance and Presentment differing from the Effect of the Surrender are both void. Yet because upon the Admittance the Lord is satisfied of his Fine, and so nothing at all prejudiced, and besides here is a customary Right upon which the Release may be grounded; I may by a Release at the Common Law sufficiently confirm this void Estate. And so upon the same Reason, if I am ousted of a Copyhold, and the Lord admit him according to the Custom, a Release made by me at the Common Law will extinguish my Right. See *Hutt. 65. 4 Co. 25.*

But in
some Cases
a Release
may ope-
rate.

Who may
surrender a
Copyhold.

In Grants made by Copyholders, as the Law respecteth the Quality of the Copyholder's Estate; so doth it respect both the Quality of his Person, and Quantity of his Estate.

The Quality of his Person: For whosoever is incapable of disposing of Land at the Common Law, cannot without special Custom pass away any Copyhold.

If a Copyholder for Life, the Remainder over in Fee to a Stranger, surrendreth in Fee, and the Lord admits accordingly; yet an Estate for Life only passeth.

If a Man hath a bare Authority joined with a Confidence without Interest, this Authority cannot be executed by Attorney: And therefore if I devise that my Executors shall sell my Land, they cannot sell by Attorney, for that were to make an Attorney upon an Attorney, which the Law will in no wise permit. And though a Man have not an Authority joined with an Interest, yet if the Authority be warranted by special Custom only, it cannot be executed by an Attorney: And therefore if there be a special Custom, that a Copyholder for Life may make Estate for twenty Years to continue after his Death, these Estates cannot be made by Attorney. So if there be a special Custom, that an Infant at the Age of Discretion may surrender a Copyhold; this Surrender, being

contd

confirmed by special Custom only, cannot be made by Attorney. And so if there be a Custom, that a Copyholder out of the Court may surrender into the Hands of the Lord by the Hands of two customary Tenants, such Surrenders must be done in Person.

But wheresoever there is a general Authority accompanied with an Interest, that Authority may be executed by Attorney.

It is not necessary, that upon Surrenders of Copyholds, the Name of the Party to whose Use the Surrender is made be precisely set down; but if by any Manner of Circumstance the Grantee may be certainly known, it is sufficient. And therefore a Surrender made to the Lord Archbishop of *Canterbury*, or the Lord Mayor of *London*, or the High Sheriff of *Norfolk*, without mentioning either their Christian Name or Surname, are good enough, and certain enough, because they are certainly known by this Name, without farther Addition. So if I surrender to the Use of the next of my Blood, to the Use of my Wife, to the Use of my Brother or Sister; having but one Brother or one Sister; these Surrenders are good without any Additions, because the Grantee may certainly be known by these Words.

By what
Name the
Grant of a
Copyhold
may be
made.

If I surrender generally into the Hands of the Lord, not expressing to whose Use the Surrender shall be; this Surrender is a good Surrender, and shall enure to the Benefit of the Lord.

If I surrender to the Use of my Son *W.* having more Sons than one of that Name; yet by an Averment this Incertainty may be helped.

But if I surrender to the Use of my Cousin, or my Friend; this is so general and so uncertain, that no subsequent Manifestation of my Intention can any way strengthen it.

So if three surrender to the Use of three or four of *St. Dunstan's* Parish, not naming the Parishioners by their Names; this Surrender is utterly void.

And so if I surrender in the Disjunction to the Use of *J. L.* or *J. N.* this is insufficient for the Incertainty.

And in customary Grants upon Surrenders the Law is not so strict as in Grants at the Common Law. For in Grants at the Common Law, if the Grantee be not *in rerum natura*, and able to take by Virtue of the Grant presently upon the Grant made, it is merely void: But in customary Grants upon Surrenders the Law is otherwise: For though at the Time of the Surrender the Grantee is not *in esse*, or not capable of a Surrender; yet if he be *in esse* and capable at the Time of the Admittance, that is sufficient; and therefore if I surrender to the Use of him that shall be Heir to *J. S.* or to the Use of *J. S.*'s next Child, or to the Use of *J. S.*'s next Wife; though at the Time of the Surrender *J. S.* had no Heir, Child or Wife,

The Law is
not so strict
in Copy-
holds, as
to the Sur-
renders, as
it is in Cop-
veyances
at Com-
mon Law.

Wife, yet if afterwards he bath a Child, or taketh a Wife, his Heir, his Child or his Wife may come into the Court, and compel the Lord to admit according to the Surrender. So if I surrender to the Use of him that shall come next into Paul's after such an Hour; whose Fortune soever it is to come first, the Lord must admit him, and I shall never avoid it. The same Law is, if I surrender to the Use of him that *J. S.* shall nominate to the Lord at the next Meeting.

The Reason of the Law is this; A Surrender is a Thing executory, which is executed by the subsequent Admittance, and nothing at all is invested in the Grantee before the Lord hath admitted him according to the Surrender; and therefore if at the Time of the Admittance the Grantee be *in rerum natura*, and able to take, that will serve.

Instruments used
in Surrenders.

In some Manors, where a Copyholder surrendreth his Copyhold, he useth to hold a little Rod in his Hand, which he delivereth to the Steward or Bailiff, according to the Custom of the Manor, to deliver it over to the Party to whose Use the Surrender was made in the Name of Seisin; and from thence they are called *Tenants by the Verge*.

In some Manors, instead of a Wand a Straw is used; and in other Manors a Glove is used. *Et consuetudo loci semper est observanda.* Coke's Copyholder 89, &c.

Why Alienations of Copyholds must be by Surrender.

We have seen that all Alienations of Copyholds must be by Surrender into the Hands of the Lord, for should it be otherwise, the Lord would lose his Fine. Now all Surrenders are either actual, or Surrender in Law in *propria persona*, or by Attorney in Court, or out of Court; if out, then it must be presented, and be done by Letter of Attorney.

Surrender into the Hands of the Steward.

A Surrender, by the better Opinion of our Books, may be made to the Lord, or his Steward, though the Steward be only retained by Parol; if retained to be Steward of the Manor, and not only of the Court, even out of the Manor, and without any particular Custom to warrant it; and he may examine a Feme Covert privately: But a Surrender into the Hands of the Bailiff and two customary Tenants, and the like, is not good, if not warranted by a particular Custom. *C. Litt. 59. 9 Co. 76. 4 Co. 30. Godb. 142. 1 Leon. 227, 228. Cro. Jac. 536. Salk. 184.*

Surrender into the Hands of two customary Tenants.

The Surrender may be made to a special Steward, for that Purpose appointed, or to one commissioned by the Steward, or by another Person authorized by Virtue of a Letter of Attorney from the Copyholder; or by two so authorized; who are in this Case to pursue all the Forms prescribed by the Custom, in all Things as the Copyholder himself must if he had been present, and in the Copyholder's Name. *1 Leon. 63. 4 Leon. 111. 9 Co. 76, &c.*

Surrender to other Persons.

What

What Action shall be deemed a Surrender in Law of a Co. pyholder, is a Point not well settled; but it seems to be a good Rule in general, That whatever Act of the Copyholder's shews, that it is his Will to hold his Estate no longer, is a Determination of his Interest. *W. Jones 42. Sed vide 1 Roll. Abr. 502. and 187. Hutt. 65. 3 Bulst. 80. 1 Roll. Rep. 256. Cart. 24. Godb. 11. Raym. 402.*

If the Steward in the Entry of a Surrender regularly presented, omit the Condition, or mis-enter the Date, or by a Parity of Reason, should mistake the Day the Money is to be paid on, the Rolls shall be amended, and the Surrenderor may be Stewards Mistakes may be amended.

If a Copyholder be surrendered to the Use of A. B. and his Heirs, till he marry C. D. and then to the Use of them two in special Tail; this is valid, and shall enure accordingly. *Calth. fol. 22.*

If a Copyholder surrender to the Use of a Stranger, in Consideration that the Stranger shall marry his Daughter before such a Day; in this Case, if the Marriage succeeds not, the Stranger shall take Nothing by the Surrender. But if the Consideration be, that the Stranger shall pay such a Sum of Money at such a Day, although the Money be not paid, yet the Surrender is valid. *Calth. fol. 37.*

If the Copyholder surrender his Land to the Use of A. B. so that A. B. pay 20*l.* at such a Day if he please, this is an absolute, not a conditional Surrender. *Calth. fol. 39.*

If a Copyholder surrender his Copyhold of Inheritance into the Hands of his Lord, to the Use of J. S. paying one hundred Pounds to his Executors within such a Time after his Death, he to whose Use this Surrender is made, takes by Force of this presently. *Bulst. 2 Part. fol. 275. Mich. 12. 7ac.*

If a Copyholder surrender to the Use of one for Life, who is admitted and dieth, he in the Reversion may enter without a new Admittance. *Leon. I. Part. 114.*

If the Copyholder surrender to the Use of his right Heirs, the Land shall remain in the Lord, until the Death of the Copyholder, for then his Heir is known, &c. See *Dyer 99. Leon. Part I. 133.*

If a Man seized of Copyhold Land in the Right of his Wife, or Tenant in Tail of a Copyhold doth surrender to the Use of another in Fee, the same doth not make any Discontinuance, but the Issue in Tail, and the Wife may respectively enter. *Leon. Part I. fol. 124.*

An Infant who surrenders his Copyhold Land within Age may enter at his full Age, without being put to any Suit for it. *Popb. Rep. fol. 39.*

It was resolved by all the Barons of the Exchequer, *Postb.* 4 Jas. That if a Copyholder surrender to the Use of a younger Son, and dies, that this younger Son cannot bring an Action till Admittance; but if the Copyhold be descended to the Heir, he may have an Action before Admittance. Co. 4. fol. 22. *Copyhold Cases:* It was likewise said, That all Copyholders of the King's Manors may now have Admittance into their Copyhold Estates well enough, and the Order for the Stay of their Admittances, which was made heretofore, is now dissolved and quash'd. *Lane's Rep. fol. 20.*

Lane's Rep. 20.
A Surrenderor of a Copyhold cannot surrender before Admittance.

A Copyholder surrendered out of Court according to the Custom of the Manor, which at the next Court was presented, and Entry thereof made by the Steward, *viz.* *Comptum est per Homagium, &c.* but no Admittance, and afterwards *Cessuy que se* surrenders before Admittance, and the first Copyholder surrenders to the Plaintiff; and in this Case there were two Questions.

First, Whether he may surrender before Admittance?

The second was, Who shall have the Land? Whether the Copyholder or the Lord? And it was held, That he could not surrender before Admittance; and the Entry of the Surrender doth not make Admittance; for this being the sole Act of the Steward shall not bind the Lord, and it is not like to the usual Form of an Admittance, *viz.* *Dat Dominus de fine, feiti fidelitatem & admissum est inde tenens;* and it was agreed to, and said that in *Hare* and *Briskleg's Case*, the Admittance of a Copyholder was compared to the Induction to a Beneficio which gives the Possession. *Popb. fol. 128.*

Popb. 128.

No Surrender by an Attorney without Deed, but an Admittance may be.

A Copyhold cannot be surrendered to another by Attorney without Deed, but one may be admitted to a Copyhold Estate by Attorney without a Deed. For there is a Difference betwixt the passing of an Estate, and the receiving of an Estate passed. *Postb. Reg. Title Surrender 2 Apr. 1650 B. R.*

Yet note, In Co. 9 Part, *Combe's Case*, it is affirmed, That a Surrender of a Copyholder may be given and taken by Attorneys.

The Presentment, by the general Customs of Manors, is to be made at the next Court-Day immediately after the Surrender; but by special Custom in some Places it will serve at the second or third Court. And it is to be made by the same Persons that took the Surrender, and in all Points material according to the true Tenor of the Surrender. And therefore if the Surrender be conditional, and the Presentment be absolute, both the Surrender, Presentment and Admittance thereupon are wholly void.

But

But if the Condition of Surrender be presented, and the Steward in entryng of it omitteth the Condition, yet upon sufficient Proof made in Court, the Surrender shall not be avoided, but the Roll amended: And this shall be no Conclusion to the Party, to plead or give in Evidence the Truth of the Matter.

If I surrender out of Court, and die before Presentment, if Presentment be made after my Death, according to the Custom, this is sufficient: So if he to whose Use the Surrender is made, dieth before Presentment; yet upon Presentment made after his Death, according to the Custom, his Heir shall be admitted. And so if I surrender out of Court to the Use of one for Life, the Rendrour and the Lessee for Life dieth before Presentment, yet upon Presentment made, he in the Remainder shall be admitted. And so if I surrender to two jointly, and one dieth before Presentment, the other shall be admitted to the whole. The same Law is, if those into whose Hands the Surrender is made, die before Presentment, upon sufficient Proof in Court that such a Surrender was made, the Lord shall be compelled to admit accordingly: And if the Steward, the Bailiff, or the Tenants into whose Hands the Surrender is made, refuse to present, upon a Petition or a Bill exhibited in the Lord's Court, the Party grieved shall find Remedy. But if the Lord will not do him Right, he may both sue the Lord and them that took the Surrender in the Chancery, and shall there find Relief. *Coke's Copyholder* 106. 4 Co. 27. & 29. Co. Litt. 59.

Admittances are threefold.

1. An Admittance upon a voluntary Grant.
2. An Admittance upon Surrender.
3. An Admittance upon a Descent.

ADMITTANCES
ADMITTED
ADMITTANCES
DIVIDED.

In voluntary Admittances the Lord is an Instrument: For though it is in his Power to keep the Land in his own Hands, or to dispose of it at his Pleasure, and to that Intent he may be reputed as absolute Owner; yet because in disposing of it he is bound to observe the Custom precisely in every Point, and can neither in Estate nor Tenure bring in any Alteration, in this Respect the Law accounts him Custom's Instrument. If the Custom doth warrant an Estate only *ad ante viduitate*, and the Lord admits for Life; this shall not bind his Heir or Successor, because Custom hath not sufficiently confirmed it. So if the Lord fail in reserving *utrumque redditum*, as if he reserveth ten Shillings, where the usual Rent customably reserved is twenty Shillings; this may be a Means to avoid the Admittance. And the Law is very strict in this Point of Reservation: For though the ancient accustomed Rent be reserved according to the Quantity, yet if the Qua-

OF VOLUN-
TARY ADMIT-
TANCES.

lity of the Rent be altered, the Heir may avoid this Grant. For if the ancient Rent from Time to Time hath been twenty Shillings in Gold, and the Lord reserveth it in Silver, this Variance of the Quality of the Rent is in Force to destroy the Grant: So, if the ancient Rent hath been accustomably paid at four Feasts in the Year, and the Lord reserveth it at two Feasts. So, if two Copyholds escheat to the Lord, the one of which hath been usually demised for twenty Shillings Rent, the other for ten Shillings Rent, and he granteth them both by one Copy for one Rent of thirty Shillings; this is not good: And so if a Copyhold of three Acres escheats, which hath ever been granted for three Shillings Rent, and the Lord granteth one Acre, and reserveth *pro rata* one Shilling Rent, *versus* *G. antiquus redditus* is not reserved. But if a Copyhold of six Acres, which hath ever been demised for six Shillings Rent, escheateth to two Copartners, and one granteth three Acres, reserving three Shillings *pro rata*; this is a perfect Reserving.

In Admittances upon Surrender, the Lord to no Intent is reputed as Owner, but wholly as an Instrument; and the Party admitted shall be subject to no other Charges or Incumbrances of the Lord, for he claims his Estate under the Party that made the Surrender; and in the Plaintiff in the Nature of a Writ of Entry in the *per* it shall be supposed in the *per* by him, not by the Lord. *Coke's Copyholder* 109.

Of Admit-
tances on
Descents.

And as in Admittances upon Surrenders, so in Admittances upon Descents, the Lord is used as a mere Instrument, and no Manner of Interest passeth out of him; and therefore neither in the one nor in the other is any Respect had unto the Quality of his Estate in the Manor; for whether he had it by Right or by Wrong, it is not material; these Admittances shall never be called in Question for the Lord's Title, because they are judicial Acts, which every Lord is enjoined to execute.

Besides, in Admittances upon Surrenders the Lord being accounted nothing but a necessary Instrument, it followeth that he hath a bare customary Power to admit *secundum formam & effectum sursum additionis*; therefore if there be any Variance between the Admittance and the Surrender either in the Person, in the Estate, or in the Tenure, or in any other collateral Points, the Lord doth only transfer an Estate according to the Surrender and his Authority, if it can take such Effect. As if I surrender to the Use of J. S. for Life, and the Lord admits him in Fee, an Estate for Life only passeth. So if I surrender without mentioning any certain Estate, because by Implication of the Law an Estate for Life only passeth, though the Lord admit in Fee, no more doth pass than the Implication of Law will warrant.

Where

Where an Authority is given to any one to execute any A&t, and he executeth it contrary to the Effect of his Authority, this is utterly void : But if he executeth his Authority, and withal goeth beyond the Limits of his Warrant, this is void for that Part only wherein he exceedeth his Authority.

These Admittances upon Surrender differ from Admittances upon Descents in this, that in Admittances upon Surrender nothing is vested in the Grantee before Admittance, no more than in the voluntary Admittances; but in Admittances upon Descents the Heir is Tenant by Copy immediately upon the Death of his Ancestor, not to all Intents and Purposes; for peradventure he cannot be sworn of the Homage before, neither can he maintain a Plaintiff in the Nature of an Assize in the Lord's Court before, because till then he is not compleat Tenant to the Lord, no farther forth than the Lord pleafeth to allow him for his Tenant. *Coke's Copyholder*, 109, &c.

Admit-
tances on
Surrenders,
and how
they differ.

As soon as the Surrendree is admitted, the Admittance having Relation to the Time of the Surrender, which is therefore to be ever carefully recorded on the Rolls, the Surrendree shall be said to be in from that Time: So that should a Surrenderor die before Admittance, the Wife shall not claim of the Estate, so surrendered, her Free-bench. *Bridgm.* 81. *Popl.* 127. 3 *Lev.* 385. 8. C. *Salk.* 185.

How the
Admission
relates.

But this being so for the Lord's Security, that he may be satisfied of his Rent, &c. before the new Tenant is admitted; yet if the Lord accept Rent of the Surrendree before any actual Admittance, the Rent being due to the Lord only from a Tenant, it seems to be an Admission in Law, and the Estate is immediately in the Tenant. *Bridgm.* 49, and 52. *Bulstr.* 214.

Admission
in Law.

As to the Heir, that he may enter and take the Profits before Admittance, is the general Opinion of our Books; but it seems the Lord may seize *quousque*, if he do not come in on the first Proclamation to be admitted; and I conceive very good Reasons may be given for both these Opinions, viz. That the Lords not residing as formerly on their Estates to oblige the Copyholder to be admitted before he entered, might be very inconvenient; and not to leave a Power in the Lord to seize *quousque*, would be putting a greater Difficulty upon the Lord, by allowing the Tenants possibly near three Year's Possession of the Estate before the Lord would be intitled to his Services, or get his Fine paid. See 4 *C. 22, 23. 1 And.* 192. *Cro. Eliz.* 148. *Mo. 597. 1 Leon.* 100. *No. 172 Lane 20.*

With Re-
spect to the
Heir him-
self.

With Respect to others who claim under the Copyholder, To those 'tis as if he had been admitted; for it would be unreasonable that claim that a Third should be prejudiced by the Delay of the Admittance. Thus the Husband shall be Tenant by the Curtesy of a Copyhold in a Manor where there is such a Custom, tho'

under him.

the Wife dies before Admittance : So likewise if after Entry of the Copyholder, or of his Guardian, if he be an Infant, though before Admittance the Copyholder dies, yet there shall be a *pe sese fratis*. 4 Co. 22. Mo. 125, and 271. 1 And. 192. 1 Mod. 102, 120.

What Admittances by Wrong-doers good.

The Admittances made on Surrenders by any in Possession, though they be Wrong-doers, or however weak their Title is, are good and binding against him that hath the Right; for the Act was no more than the Law would compel them to do; And if Surrenders are made to one who hath a particular Estate in a Manor, and this Estate determines before the Admittances are made accordingly, the next Lord is compellable to do it. Co. Litt. 58. 09. 27, 28. 1 Ven. 360.

And why.

For the Lord is but the Instrument, and nothing passeth out of the Lord, but to answer the Purposes of the Surrenderor, by whom the Surrenderee after Admittance shall be said to be in, and not by the Lord; for if the Lord admit the Surrenderee to a larger Estate than limited by the Surrender, yet no greater passes to him. 4 Co. 28, 29. 1 Roll. Rpp. 237, 317, and 428.

How the Admission to be where the Surrenderee is dead.

Where, by the Act of God, it becomes impossible to admit according to the Surrender, then the Admission as near to the Surrender as possible shall be good: As if one Surrender to the Use of himself for Life, Remainder to B. &c. If the Surrenderor dies, B. shall be admitted, so if the Surrender had been to J. S. in Fee, and J. S. had died, the Heir should be admitted. Dyer 251. 2 Sid. 38, and 61.

Admission by Attorney may be denied.

'Tis a discretionary Act in the Lord to admit any one by Attorney or not, because he ought to do Fealty, which cannot be done by Attorney. 9 Co. 76.

Admit- tances by Implica- tion of Law.

That the Lord may admit out of Court is agreed, but whether the Steward may is *verba Questio*; and the Books in this exceedingly vary; perhaps this Distinction may solve it, viz. that those Books which hold the Negative, are to be intended of the Stewards of the Court, and not of Stewards of the Manor; for the Steward hath the Power of the Lord, and he may. Sed vide Bridg. 49. 3 Bulst. 314. Cro. Jac. 403. Godb. 368. 1 Roll. Abr. 527. 4 Co. 26, 27. Salk. 184.

Besides these expressed Admittances, there are Admittances by Implication of Law; as if the Lord knowing of the Surrender, accept the Rent due by Reason of the Party's holding the Land: So if the Surrenderee surrender his whole Interest to another before Admittance, by the better Opinion of our Books the Admittance of the second Surrenderee shall enure as an Admittance of the first: But if he only surrender Part of his Estate, or if no Admittance, but only the Surrender, is entered on the Roll; if 'tis not accepted, 'tis none. 3 Bulst. 214, 219, and 227. Cro. Eliz. 504, 661. 2 Sid. 61. Style 146. Cro. Jac. 403.

403. Godb. 268. Abr. 49, and 52. Tolv. 144. Bridgm. 81. Popb.

127.

If a Copyholder surrenders to one for Life, Remainder to another, and the Surrendree is admitted, this is an Admission of him in Remainder. 4 Co. 22.

Where the Wife is intitled to her Free-bench by the Custom of the Manor, she shall have the Estate before any Admittance, and may enter and make a Lease for a Year; because her Estate is only a Branch of her Husband's, and there is no Fine due to the Lord. N.Y. 29. S.C. 2 Roll. 178. Hob. 181.

Free bench
Wife before
Admittance.

On these Admittances and Surrenders a Fine being due to the Lord, we now proceed to treat of them.

A Fine is a Sum of Money paid to the Lord of the Manor Fines, for an Income into any Lands or Tenements. In some Manors Fines are certain, in some incertain.

By special Custom Copyholders are to pay Fines upon Licences granted unto them to demise by Indenture; but by general Custom they are to pay Fines only upon Admittances.

If the Lord having a Copyhold by Escheat, Forfeiture or other Means, maketh a voluntary Admittance, a Fine is due unto the Lord.

If a Copyholder surrendreth to the Use of a Stranger, and the Lord admitteth, a Fine is due to the Lord.

So if a Copyhold descendeth, and the Lord admitteth the Heir, where by the Custom of the Manor the Wife is to have Dower, and the Husband is to be Tenant by the Curtesie of a Copyhold; either of them shall be admitted, and shall pay a Fine to the Lord.

But one Fine is due on the Admission of one for Life, Remainder to another; nor is there any Fine due before Admittance, nor is any Fine due for an Admission to a Reversion, because it ever continued in the Surrendree. 4 Co. 22. 9 Co. 107. 3 L. & R. 308.

When one
Fine only
due.

If two several Copyholders join in a Grant of their Copyhold by one Copy; or if one Copyholder, having several Copyholds, granteth them by one Copy; yet the Grantee shall pay several Fines, for they shall inure as several Grants.

But if two Jointenants, two Tenants in Common, or Tenant for Life and he in the Remainder, join in the Grant of a Copyhold, one Fine only is due, and it shall enure as one Grant only: So if a Surrender be made, and after a Common Recovery is had by Plaintiff in the Nature of a Writ of Entry in *le poit*, for the better Assurance, one Fine only shall be paid.

A Fine may be due on every Change of the Tenant, by Act of God, or Act of the Party; or on Change of the Lord, by Fines, when they may be due by Change of the Parties. 4 Co. 28. Cro. Eliz. 779. Moor 622.

Fines cer-
tain must
be tender'd.

In some Manors the Fines are certain, in others uncertain; if the Fines are certain the Heir ought to tender it when he prays to be admitted. *Co. Litt. 59.*

If there be several Copyholds, the Fines ought to be assed severally, because the Tenant may be willing to forfeit one by refusing to pay the Fine for that, but not the rest. *4 Co. 28.*

**Uncertain
Fines.**

Where the Fines are uncertain, the Lord must assed a reasonable Fine; what is a reasonable Fine, and what not, is to be determined by the Judge. But Experience shews us, that a Fine not exceeding two Years Value is a reasonable one; if the Fine be an unreasonable one, the Copyholder is not obliged to pay it; if reasonable, yet as the Sum was uncertain, he shall have a convenient Time to pay it in, and the Lord may appoint the Day. *Litt. Rep. 252. Godb. 265. 2 Bulst. 32. 13 Co. 2. 1 Roll. Rep. 75. Cro. Car. 196. Cro. Jac. 671. 3 Lev. 255. 3 Mod. 132. Hob. 135. 4 Co. 27. 1 Roll. Abr. 513, and 578. Cro. Eliz. 779. Mo. 622.*

**When to
be paid.**

A Copyhold Fine must be assed in open Court, and not in a Book out of Court.

*Cro. part 1.
fol. 142.*

Hill. 5. Car. Rot. 125. Dow and others against Golding, in Trespass upon a Demurrer, and the Question was, Whether the Lord of a Manor may assed two Years and a half Value of Land according to racked Rent for a Fine upon Grant of a Copyhold, and for Non-payment Entry for Forfeiture? And all the Court conceived, That one Year and a half of Rent improved is high enough; and the Defendant assed two Years and a half, it is unreasonable; and therefore the Plaintiff might well refuse the Payment thereof, and consequently the Entry of the Defendant for a Forfeiture not justifiable.

*In a Copy-
hold the
Unreason-
ableness of
the Fine
must come
on the
Part of the
Tenant.*

Cro. Part 1. fol. 142.

A Copyholder brought an Action of Trespass against his Lord, for an House and an Acre of Land. The Defendant pleaded that he had admitted the Copyholder, and had assed a Fine of twenty Nobles upon it, and had appointed him to pay it to his Bailiff, at his House, being within the Manor, three Months after, and alledged, that he had not paid it accordingly; whereupon the Plaintiff demurred, and the Opinion of the Court was, That the Lord was not bound to aver, or shew that the Fine assed was reasonable, but it must come on the Copyholder's Side, to shew the Circumstance of the Case, to make it appear to the Court to be unreasonable, and so to put it upon the Judgment of the Court. For the Fine in Law is arbitrary, and is due to the Lord of common Right, and it is only in Point of Excuse to the Tenant, if it be unreasonable, which the Court cannot judge, but upon the Fact agreed; and the Copyholder, if he be a Defendant, may plead not guilty: And then it shall come in Evidence whether the Fine was unreasonable or no. But the Opinion of the Court was against the Lord in this Case, because he had not laid a

Demand of his Fine, at the Time it grew due, or some Time after, of the Person of the Tenant, as the Lord must do in case of Forfeiture of Copyhold, both for Rent and Fine. *Hob. Rep. fol. 135. Denny versus Lemman.*

S E C T. III.

Of the Rights of the Lord, and the Engagements of the Copyholder.

THE Rights of the Lord are to his Services; those Services are either Services of Submission or of Profit; the Service of Submission is Fealty, which every Tenant is bound to swear to his Lord. The Form of which Oath you may see below.

Services of Profit are of two Sorts. 1. Tending to the publick Profit of the Commonweal; as when the Lord enjoineth his Tenant to amend Highways, to repair decayed Bridges, or *familia*. 2. Tending to the private Profit of the Lord; as where the Tenant is enjoined to be the Lord's Carver, Butler or Brewer, or is tied to pale the Lord's Parks, to tile the Lord's Houses, to thatch the Lord's Barns, and *familia*. And thus much for corporal Services.

Annual Services are in Number infinite, in Nature all one, for they all tend to the Increase of the Lord's Coffers, and are reserved in their Duties, as well for Copyhold Land as Freehold Land, though in the *Saxons* Time, and long after the Conquest, they were never or seldom reserved for Copyhold Land, but only for Freehold Land. I will not enumerate the many Particulars of annual Services, for that were as endless as numbring the Sands of the Sea; only this I say, that those annual Services which here come within the Compass of my Meaning consist all in Render, none in Feasance; for those annual Services, which consist in Feasance, I comprehend under corporal Services.

1. That accidental Services differ from corporal and annual Services in this, that most accidental Services are incident to the Fee, and are due without special Reservation of the Lord; but most corporal Services and all annual Services are due upon special Reservation, and are not incident unto the Fee.

2. That Service is taken in a double Sense, *in strictiori sensu*, and *in latiori sensu*. *In strictiori sensu*; and in that Sense the Feudists define *Servitium fore munus obsequii clientelario*, &c. that Duty which the Tenant oweth unto his Lord, either in performing some corporal Function, or in discharging some annual Payment. *In latiori sensu*, and so it signifieth any Duty what.

Corporal
and acci-
dental Ser-
vices, how
they differ.

Service,
what.

whatsoever accruing unto the Lord by Reason of his Seigniory ; and in this Sense these accidental Services following (which *prima facie* may seem better to rank under the Title of Jurisdictions, or rather under the Name of the Fruits of a Manor) may very fitly be reduced to this Kind of Services.

Heriot.

Heriot or Hariot cometh of the Latin Word *Herus, Dominus*, because 'tis a Duty appropriated to the Lord ; or it is derived from the Saxon Word *Here, Exercitus*, because in the Saxons Time, when the Name of Heriot was first known, Heriot signified nothing else but a Tribute given to the Lord for his better Preparation towards War, as a Horse trapped, or a Spear, or Armour, or a Sword, or some such like military Weapon ; and therefore in this Sense, importing a Thing appertaining to the War, and being due unto the Lord, by Reason of this Service which Tenants owe unto their Lords in any warlike Employments, it may very fitly be derived from hence. This their Heriot among the Saxons little differed from our Relief at this Day ; howsoever now they differ *ex diametro*. But let us examine the Nature of our Heriots at this Day, and not search into the Nature of their Heriots in those Days ; for that were to examine the Nature of Reliefs, not Heriots. Britton thus speaketh : *A. Heriot is a Render made at the Death of a Tenant to his Lord of the best Beast found in the Possession of the Tenant deceased, or of some other, according to the Ordinance and Assignment of the Party deceased, to the Use of the Lord ; which toucheth not the Land at all, nor the Heir, nor his Inheritance, neither hath any Comparison to a Relief ; for it proceedeth rather of Grace and good Will than of Right, and rather from Villains than Free-men.* To this Effect speaketh Fleta : *Heriotum est quadam præstatio ubi tenens, liber vel servus, in morte sua Dominum suum resipicit de meliori Avario suo, vel de secundo meliori ; qua quidem præstatio magis suis de gratia quam de jure, Et nullam habet comparationem ad Relevium, eo quod heredi non contingat, quia factum accessoris.*

Flets, lib. 4.
cap. 18.

Heriots
twofold.

This our Heriot is twofold ; Heriot-Service and Heriot-Custom. Heriot-Service is that Heriot which is never due without special Reservation, and is seldom reserved upon any less Estate than an Estate of Inheritance. Heriot-Custom is that Heriot which is never due upon special Reservation, but is challenged upon some particular Custom, and is usually paid upon an Estate for Life, and for Years, as well as upon an Estate of Inheritance. Touching the Original of these Heriots, doubtless they are not of that Antiquity which the Name doth promise : For though among the Saxons the Name of Heriot was known, yet the Nature of both these Heriot-Services and Heriot-Custom was utterly unknown until the coming of the Normans, who immediately upon the Conquest chang'd the Name of the Saxon Heriot, and termed it by the Name of a *Relief*, leaving notwithstanding some Difference betwix t

Vide Lamb.
in his Ex-
plication
of the
Saxon
Words.

Britton,
cap. 69.

betwixt them; for where the *Saxons* Heriot consisted usually in the Payment of some military Weapon, our Relief in those Days consisted wholly in the Payment of a certain Sum of Money. And presently after the *Normans* had thus wholly altered the Name, and somewhat altered the Nature of the *Saxons* Heriot, then upon the parcelling of their Lands unto inferior Tenants, they invented this new kind of Service, unknown amongst the *Saxons*, and termed it by the Name of Heriot-Service. Afterward, upon the Infranchisement and Manumission of certain Villains, these Heriot-Customs were given to the Lords as a continual future Gratulation. So that originally, as *Bruton* and *Fleta* well note, they were granted merely *ex gratia*; but now Time hath effected it that they are challenged *ex debito*.

Relief is a certain Sum of Money which every Freeholder payeth unto his Lord, being at full Age at the Death of his Ancestor, which in Effect soundeth all one with these Words

of *Glanvil*: *Heredes maiores statim post dec sum Autecessorum sup. rum possint se tenere in hereditate sua, licet Domini possint heodum suum cum herede in manus suas capere: ita tamen moderate id fieri debet, ne aliquam diffisionem heredibus faciant; possum enim heredes, si opus fuerit, violentiae Dominorum resistere, dum tamen parati sunt Relevium & alia retro servitia exinde facere.* With this agree-

*Glanv.
lib. 7. c. 9.*

eth the Definition of *Hotoman*; *Relevium est honorarium quod novus*

*Hotoman
Comment.
de verbo
Feod. &
verbo Re-
levium.*

Vassalus introitus causa patrono largitur, quasi morte usuali aliis, vel

*Bracton,
lib. 2. c. 86.*

alio quo casu Feodum ceciderit, quod jam a novo sublevatur. This Relief by the ancient Civil Law was termed *Introitus*; and

Vincentius termeth it *Præstationem seu solutionem factam pro confir-*

*Skene de
verb. sign.
tit. Relief.*

matione seu renovatione possessionis, and that very aptly: for indeed Relief is the Key which opens the Gate to give the Heir free

Passage to the Possession of his Inheritance. *Braeton* giveth this Reason why it is called a Relief, *Quia hereditas, qua ja-*

*si well
and sound
and true
and true
and true
and true*

gens fuit per antecessoris decessum, relevatur in manus heredis; &

*Glanvil,
lib. 9. c. 9.*

proper factam Relevationem facienda erit ab herede quædam prestatio

qua dicitur Relevium. *Skene* fondly imagineth that it taketh its

Name *a relevando*, in another Sense; for, saith he, Relief is

given by the Tenant or Vassal being of perfect Age, after the

expiring of the Wardship, to the Lord of whom he held his

Land by Knight-service, that is, by Ward and Relief; and

by Payment thereof he relieves, and, as it were, raiseth up

again his Lands, after they were fallen down into his Superi-

ours Hands by Reason of Wardship. But these Words of

Glanvil will serve to conyince him of Error; *tandem vero eodem*

ad statim perveniente, & facta ei hereditatis restituzione, quietus

erit a Relevio ratione custodie. This Relief is twofold; 1. Re-

lief-Service. 2 Relief-Custom. Relief-Service is that which

is paid upon the Death of any Freeholder. Relief-Custom is

that which is paid upon the Death, Change or Alienation of

any Freehold, according to the Custom of the Place; in many

many Places half a Year's Profit, in many Places a whole Year's Profit. And therefore where Bracton saith, *Quod de Domino Relevium qui succedit jure hereditatis, non autem si quis acquirit;* that is to be taken with this Caution, *nisi illud etiam consuetudine præstare debet qui acquirit.* These Reliefs are paid as well for Lands holden in Socage, as Lands holden by Knight-service. For Lands holden in Socage in this Manner: If a Tenant in Socage die, his Heir above the Age of fourteen, then shall the Heir double the Rent that his Ancestor was wont to pay to the Lord; and if the Tenant holdeth of his Lord by Fealty and five Shillings, then shall the Heir double the Rent, and shall pay ten Shillings, *viz.* five Shillings in the Name of a Relief, over and above the five Shillings whch he payeth for his Rent.

Relief and
Heriots,
how they
differ.

1. They differ in this, that a Heriot lieth in Prender, and a Relief in Render. 2. In this, that a Heriot is paid in the Name of a Tenant deceased; but a Relief in the Name of an Heir who is become Tenant. 3. In this, that Heriots are paid by Copyholders as well as Freeholders; but Relief by Freeholders only. 4. In this, that Heriots are ever due upon a special Reservation, or upon some particular Custom; but Reliefs are incident to the Fee, and are due without Reservation or Custom, contrary to the Opinion of *Vincentinus,* who holdeth a Relief *extrinsecam fore præstationem, & non inesse Feodo.*

Americia-
ment,
what.

Americament is a pecuniary Punishment for any Offence committed against the Lord of any Manor; or (as some more at large define it) it is a certain Sum of Money imposed upon the Tenant by the Steward, by Oath and Presentment of the Homage, for the Breach of any By-Law made either for the Profit of the whole Kingdom, or for the Benefit of the little Commonwealth among themselves, or for Default of doing Suit, or for other Misdemeanours punishable by the same Court, infinite in Number and Quality. And this Word *Americament* taketh its Name from being in the Lord's Mercy, to be punished more or les at his Will and Pleasure; and it differeth from a Fine in divers Respects.

How it
differs from
a Fine.

1. In that whosoever is fined may lawfully be imprisoned, but whosoever is amerced cannot. 2. In this, that Americaments are incident unto Courts Baron as well as unto Court-Leets; and Fines are never incident to any Courts-Baron, but to Court-Leets only, or other Courts of Record. 3. That Americaments are incident unto every Manor whatsoever; but Fines are incident unto some few Manors only. The Reason of this Difference is partly grounded upon the former Difference: For since Americaments are incident unto every Court Baron, and Courts-Baron are incident unto every Manor; sequitur ex conseqüente, that unto every Manor Americaments are incident; But ex adverso, Fines being incident unto Court-Leets

Leets only, and those Court-Leets being in some few Manors only, not in every Manor; expressly sequitur, that Fines are not incident unto every Manor, but unto some few Manors only. 4. In this, that Amerciaments are afferable *per pares*, *per sacramentum proborum & legalium hominum de vicineto*, qui, secundum modum delicti, majori vel minori amerciamento delinquentem multare possunt: But Fines are never afferable in this Kind; for look what Fine soever the Court imposeth upon the Delinquent, that bindeth sufficiently without farther Afferance.

This Law of Afferance was before the Statute of *Magna Charta*; for Glanvil thus speaketh of it; *Est autem Misericordia Domini Regis, quo quis per juramentum legalium hominum de vicineto eatenus amerciandus est, ne aliquid de suo honorabili continet. amittat:* And therefore by this appeareth, that this Statute of *Magna Charta* was but an Affirmance of the Common Law in this Point of Afferance. Touching the second Question, know that it is not in the Power of the Court to impose a Fine or an Amerciament at their Election for any Offence committed, but still the Quality of the Punishment must necessarily suit with the Quality of the Offence: From the several Natures of Offences committed, arise the several Names of Punishments inflicted. The Offences in Respect of the Place are twofold, and in Respect of the Persons twofold. In Respect of the Place, 1. Offences committed *extra Curiam*, of which the Steward by no common Possibility can have Cognizance without the Presentment of the Homage; and therefore the Power of presenting them, and imposing Punishments for them, belongeth unto the Jurors of the Leet, and not unto the Steward; and these Punishments thus imposed are termed *Amerciaments*. 2. Offences committed *in Curia*, of which the Steward can take sufficient Notice, without the helping Hand of the Homage; and as therefore the Punishments of these Offences belong unto the Steward, not unto the Jurors; and these Punishments thus imposed are termed Fines. Thus in Respect of the Place Offences are twofold. In Respect of the Person they are likewise twofold. 1. Offences committed by private Persons. 2. Offences committed by publick Officers and Ministers of the Court, in the Administration of their Office. Punishments imposed for Offences of the former Rank are termed *Amerciaments*, of the latter Rank *Fines*; the one affered *per pares*, the other not. And the Reason why the Statute of *Magna Charta* in this Point of Afferance extendeth *cap. 98.* *Etsa lib. I.* not unto any Offences committed in Court by private Persons or publick Officers; neither unto any Offences committed *extra Curiam*, by publick Officers in Administration of their Office is this, because though the Words of the Statute are generally extending unto all Offences whatsoever; yet the Intent of the Statute-makers was not to make the Jurors Affer-*Co. 8. Greif.*
quors in omnibus delictis multandi, sed in iis tantummodo puniendis ley's Cate.

quorum certam possint habere notitiam & intelligentiam, as Elea speaketh. And therefore since the Steward hath more certain Notice of Offences committed *in Curia*, by what Persons soever, than the Jurors have, and can better judge and discern of the Natures and Qualities of Offences committed *extra Curiam* by publick Officers than Jurors can, therefore surely the Intent of this Statute was, to leave the Punishment of these Offences to the Discretion of the Steward, and not to the Afference of the Homage.

Escheats.

Escheats cometh of the French Word *Esbear, excedere*, and are termed *Excedentie*, which imports Lands fallen into the Lord's Hand for Want of Heir general or special to inherit them. But before the Lord enter into an Escheat in this Kind, the Homage ought to present it, and being presented, Proclamation ought to be made to give Notice to the World, that if any Man come in and justly claim, he shall be received; the Homage then finding it clear, intitle the Lord as to Lands escheated.

Besides this ordinary Sort of Escheat, there is another Sort of Escheat, and that is, where any Freeholder committeth Felony, and is attainted, the King shall have *annum, diem & vestum*; and then it cometh to the Lord as an Escheat.

For the Recovery of all these Rights the Law hath provided various Remedies for the Lord: In some Cases the Land it self shall be the Lord's as forfeited; in other Cases the Tenant shall be distrained or punished by Amerciament, of which we now proceed to treat more at large; and first of Forfeiture.

Forfeiture cometh of the French Word *Forfaict, Scelus*; *qui scelerum & derelictorum perpetratio est foris factarum causa & origo.* In our Language it signifieth the Effect of transgressing, rather than the Transgression it self; I mean, it signifieth the Penalty for the Offence committed, rather than the Act it self whereby the Offence it self is perpetrated; and it extendeth both unto Lands and unto Goods; unto Lands, both Copyhold and Freehold.

Forfeiture
of Goods.

Touching the Causes from whence grow the Forfeitures of Goods, they are likewise in Number many; and from the several Causes of forfeiting Goods arise several Names of Goods forfeited. 1. If a Felon stealeth Goods, and upon Pursuit waiveth these Goods, and leaveth them in any Part of the Manor, and be not attached upon the fresh Suit of the Owner; then are these Goods forfeited to the Lord, and are termed *Waifs*. 2. If any Beasts are found wandering in any Place, and be proclaimed in three Market-Towns adjoining; and are not claimed by the Owner in a Year and a Day, then are the Beasts forfeited to the Lord who hath such a Liberty, and are termed *Estrays*.

Waifs.

Estrays.

Touching

Touching the Causes from whence Forfeitures of Freehold Land arise.

The Causes are many, amongst the which I have observed,

1. That if any Freeholder alieneth his Land in Mortmain, he forfeiteth his Freehold.
2. If a Freeholder ceaseth for the Space of two whole Years to perform such Services, or to pay such Rents, as he is tied unto by his Tenure, and hath not upon his Land sufficient Goods or Chattels to be distrained, he forfeiteth his Freehold.
3. If any Freeholder infringeth any Condition whereunto he is tied, he forfeiteth his Freehold.

Of Acts which amount to Forfeiture, some are Forfeits *eo instanti* that they are committed, some are not Forfeits till P resentment. Offences which are apparent and notorious, of which the Lord by common Presumption cannot chuse but have Notice, are Forfeitures *eo instanti* that they are committed; as if by special Custom, upon the Descent of any Copyhold of Inheritance, the Heir is tied upon three solemn Proclamations made at three several Courts, to come in and be admitted to his Copyhold; if he faileth to come, in this Failer is a Forfeiture *ipso facto*.

So if a Copyholder be sufficiently warned to appear, and he faileth; this is a Forfeiture *ipso facto*.

But if he be hindred by Sicknes, or by overflowing of Waters, or if he be much in Debt, and fear to be arrested, or if he be a Bankrupt, and keepeth his House; then his Default is no Forfeiture.

If a Copyholder in the Court be called and summoned to be sworn of the Homage, and refuseth: So if a Copyholder be sworn of the Homage, and then refuseth to present the Articles according to his Oath; this is a Forfeiture *ipso facto*.

So if a Copyholder will swear in Court that he is none of the Lord's Copyholder, this is a Forfeiture *ipso facto*.

But if a Copyholder in Presence of the Court speaketh un-reverent Words of the Lord, as that the Lord exacteth and extorteth unreasonable Fines and undue Services; this is fineable only, but no Forfeiture: And if he saith in Court that he will devise a Means no longer to be the Lord's Copyholder, this is neither Cause of Fine nor Forfeiture; for peradventure the Means that he intended was lawful, viz. by passing away his Copyhold. *Et ubi sensus verborum est multiplet, verba semper sunt accipienda in meliori sensu.*

If the Steward sheweth a Court-Roll to a Copyholder, to prove that his Land is holden by Copy, and the Copyholder saith he is a Freeholder, and sheweth a Deed, pretending thereby to procure his Land to be Freehold, and teareth in Pieces the Court-Roll; this is a Forfeiture *ipso facto*.

Freeholds
how for-
feited.

So if the Lord, upon the Admittance of a Copyholder, the Fine by the Custom of the Manor being certain, demandeth his Fine, and the Copyholder denieth to pay it upon Demand, this is a Forfeiture *ipso facto*.

So if a Copyholder will sue a Replevin against the Lord upon the Lord's lawful Distress for his Rent or Services; this is a Forfeiture *ipso facto*.

But if the Copyholder be in Doubt whether it be due or not, and therefore intreateth the Lord that the Homage may inquire the Truth; this is no Forfeiture.

If the Fine by the Custom of the Manor be uncertain, tho' a reasonable Fine be assed, yet because no Man can provide for an Incertainty, the Copyholder is not bound to pay it presently upon Demand, but shall have convenient Time to discharge it, if the Lord limit no certain Day for Payment thereof; and if within convenient Time it be not discharged, this is a Forfeiture without Presentment.

But if the Fine be unreasonable, though it be never paid, it is no Forfeiture; and it shall be determined by the Opinion of the Justices before whom the Matter dependeth, either upon a Demurrer, or in Evidence to the Jury, upon the Confession or Proof of the yearly Value of the Land, whether the Fine be reasonable or not: For if the Lords might asses unreasonable Fines at their Pleasures, then most Estates by Copy, which are a great Part of the Kingdom, and which have continued Time out of Mind, might now at the Will of the Lords be defeated and destroyed, which would be very inconvenient.

If the Lord demandeth his Rent, and the Copyholder denieth to pay it; this is a Forfeiture *ipso facto*.

So if the Copyholder saith that he wanteth Money to discharge the Rent, and therefore entreateth the Lord to forbear until he be better provided; unless the Lord giveth his Consent, this Non-payment is a Forfeiture *ipso facto*.

For a Copyholder, knowing his Day of Payment, is to provide against the Day. But if the Lord cometh upon the Copyholder's Ground, and demandeth his Rent, and neither the Copyholder himself, nor any other by his Appointment, is there present to answer their Demand, though this be a Denial in Law of the Rent, yet this is no Forfeiture.

But if the Lord continueth in making Demand upon the Ground, and the Copyholder is still absent, this continual Denial in Law amounteth to a Denial in Fact, and maketh the Copyholder's Estate subject to a Forfeiture without Presentment.

If a Copyholder for Life suffereth a Recovery by Plaintiff in the Lord's Court as Copyhold of Inheritance, this is a Forfeiture *ipso facto*.

But if he surrender in Fee, this is no Forfeiture, because it did not pass by Livery.

If a Copyholder committeth Waste voluntary or permissive, this is a Forfeiture *ipso facto*.

Voluntary : As if he plucketh down any ancient-built House, or if he buildeth any new House, and then pulleth it down again ; or if he ploweth Meadow, so that thereby the Ground is made worse ; or loppeth the Trees, or selleth the Lopping ; or if he cutteth down any Fruit-trees for Fuel, having other Wood sufficient ; these and the like voluntary Wastes are Forfeitures *ipso facto*.

Permissive : As if he sufferereth his House to decay or fall to the Ground for want of necessary Reparations ; or if he sufferereth his Meadow for want of mending his Banks to be surrounded, so that it becomes rushy, or worth nothing ; or his arable Ground so to be surrounded, that it is become unprofitable ; these and the like permissive Wastes are Forfeitures *ipso facto*.

And thus much of Acts which are Forfeitures *eo instantे* that they are committed. A Word of those Acts which are said not Forfeitures till Presentment.

And such are those Offences which by common Presumption the Lord cannot of himself have Notice of, without Notice given ; as if a Copyholder committeth Felony or Treason.

So if a Copyholder be outlawed or excommunicate, that the Lord may have the Profits of his Copyhold Land, a Presentment is necessary.

So if a Copyholder goeth about in any other Court to intitle any other Lord unto his Copyhold, or if he alieneth by Deed ; these and the like ought to be presented.

If a Copyholder maketh a Bargain and Sale of his Copyhold, and it is not inrolled according to the Statute, this is no Forfeiture, no more than a Feoffment without Livery, because nothing passeth.

So if a Copyholder maketh a Feoffment of all his Lands in *Dale*, and maketh Livery in his Charter-Lands ; no Part of his Copyhold Land is thereby forfeited ; but if Livery be made in any Part of the Copyhold Lands, all his Copyhold Lands are forfeited.

If a Copyholder by Deed of Bargain and Sale inrolled according to the Statute doth bargain and sell all his Lands in *Dale*, having both Copyhold and Freehold, his Copyhold is not thereby forfeited ; for the Law will construe this to extend to his Freehold only, rather than by any over-large Construction make a Forfeiture in this Kind.

And if a Copyholder by Deed inrolled, bargaineth or selleth all his Copyhold Lands in *Dale*, or all his Lands in *Dale* generally, having no Freehold Lands ; this is a Forfeiture.

Of Forfeitures by Presentment.

Thus I have shewed you what Acts amount to a Forfeiture. Now I will shew you whnt Persons are able to forfeit.

**Who can-
not forfeit.** A Man *non sane memoria*, an Ideot or a Lunatick, tho' they be able to take a Copyhold, yet they are unable to forfeit a Copyhold, because they want common Reason, nay, common Sense.

So an Infant that is under the Age of fourteen is unable to forfeit his Copyhold, because he wanteth Discretion; and till then he is to be in Ward to the next of his Kindred to whom the Inheritance cannot descend, or to the Lord or the Bailiff of the Manor, as the Custom shall warrant.

So a Feme Covert, by any Act she can do of herself, cannot possibly forfeit her Copyhold, because she is not *sui juris*, *sed sub potestate viri*; but if she do any Act which amounteth to a Forfeiture by the Consent of her Husband, this is in her a Forfeiture.

An Infant at the Age of Discretion may forfeit his Copyhold, not by Offences which proceed from Negligence or Ignorance, but by such as proceed from Contempt.

If an Infant come not in to be admitted, according to the Custom, at three solemn Proclamations made at three several Courts, or if he will suffer his Houses to go to Ruin, or his Ground to be surrounded; these Acts, favouring of Negligence only, are no Forfeitures.

So if an Infant Copyholder sueth a Replevin against the Lord upon a Distress lawfully taken, or if he alieneth by Deed, or the like; these Acts, relishing of Ignorance only, are no Forfeitures.

But if he denieth from Time to Time to pay the Lord the Rent, or committeth voluntary Waste, notwithstanding often Warning given him by the Lord; these Acts, proceeding from Malice and Contempt, are Forfeitures; and so if he committeth Felony or treason.

If a Guardian of a Copyholder committeth Waste, he shall forfeit the Wardship only, not the Inheritance of the Copyhold.

If *Cestuy que use* of a Copyhold committeth Waste, he shall not forfeit the Copyhold.

If the Husband committeth Waste in Copyhold Lands, which he hath in the Right of his Wife, this is a Forfeiture of the Wife's Copyhold.

But if a Stranger committeth Waste without the Consent of the Husband, this is no Forfeiture, tho' the Wife consenteth.

If a Dissensor of a Copyhold committeth Waste, this is no Forfeiture.

So if a Copyhold be surrendered to the Use of J. S. and before Admittance J. S. committeth Waste, this is no Forfeiture; for by the same Reason that he cannot grant before Admittance, he cannot forfeit before Admittance.

If two Jointenants be of a Copyhold, and one committeth Waste, he forfeiteth his Part only; for no Man can forfeit more than he hath granted.

And therefore if there be Tenant for Life with a Remainder over of a Copyhold, and the Copyholder for Life purchaseth the Manor, committeth Waste, or doth any Act which amounteth to the Extinguishment or the Forfeiture of a Copyhold, yet the Remainder is not hereby touched.

And so if a Copyhold be granted to three, *habend. successur.* whereby the Custom of the Manor this Word *successive* taketh Place; the first Copyholder cannot prejudice the other two by any A&t he can do, no more than if a Copyholder in Fee by Licence maketh a Lease for Years by Deed, or without Licence by Copy, and either of these Lessees committeth Waste, the Reversion is not hereby forfeited.

If I have two several Copyholds by two several Copies, and I commit Waste in one; this is a Forfeiture of this only, and not of the other.

And so if I grant these several Copyholds by one Copy, yet they continue several as they did before; and the Forfeiture of the one is not the Forfeiture of the other.

The same Law is, if two several Copyholds escheat to the Lord, and he re-granteth them again by one Copy.

And thus have I shewed what Persons are able to forfeit. I will now in a Word shew what Persons are able to take Benefit of a Forfeiture.

Regularly it is true, that none can take Benefit of a Forfeiture, but he that is Lord of the Manor at the Time of the Forfeiture.

Who ro
take Ad-
vantag
e of
a Forfei-
ture.

And therefore if a Copyholder maketh a Feoffment, and then the Lord alieneth, neither the Grantor nor the Grantee can take Benefit of this Forfeiture; for neither a Right of Entry nor a Right of Action can ever be transferred from one to another. And therefore if a Freeholder alieneth in Mortmain, and then the Lord granteth away his Seigniory, neither the one nor the other can ever take Benefit of this Forfeiture.

So if a Lessee for Life committeth Waste, and then the Lessor granteth away the Reversion; this Waste is made dis-punishable.

But if Tenant for Life be of a Manor, with Remainder over in Fee to a Stanger, if a Copyholder committeth Waste, and then Tenant for Life of the Manor dieth before Entry, yet he in Remainder may enter; for he had an Interest in the Manor at the Time of the Forfeiture committed, though he could not enter by Reason of the State in Tenant for Life, which being determined, his Entry is now accrued unto him for the Forfeiture committed in the Life of Tenant for Life.

And sometimes he that is neither Lord of the Manor at the Time of the Forfeiture committed, nor ever after, shall take Benefit of a Forfeiture.

As if a Lord of a Manor granteth a Copyhold in Fee, and then granteth the Frank-tenement or the Inheritance of this Copyhold to a Stranger; the Grantee, though no Lord of the Manor, nor able to keep any Court, shall take Benefit of Forfeitures made by the Copyholder, as if the Copyholder do make a Feoffment, Lease, Waste, deny the Rent, &c.

Thus have I shewed what Persons are able to take Benefit of a Forfeiture. I will now in one Word shew what Acts amount to a Confirmation of an Estate forfeited.

What dis-
pences
with a
Forfeiture.

If the Lord doth any Thing whereby he doth acknowledge him his Tenant after Forfeiture; this Acknowledgement amounteth to a Confirmation; as if he distraineth upon the Ground for Rent due after Forfeiture, or if he admitteth after the Forfeiture, or the like; these are Estoppels to the Lord, so that he can never enter, so the Lord have Notice of such Forfeitures before any such Act which may amount to a Confirmation be done. Yet some make this Difference, that these Forfeitures only which destroy not the Copyhold are confirmable by subsequent Acknowledgement, and not those Forfeitures which tend to the Destructions of a Copyhold; as if the Copyholder maketh a Feoffment, by this the Copyhold is destroyed, and therefore no subsequent Acknowledgment of the Lord will ever salve this Sore.

If any Freeholder refuseth to do Hemage or Fealty, which are corporal Services of Submission; or to mend Highways, repair decayed Bridges, or *similia*, which are corporal Services tending to the publick Profit of the Commonweal; or to discharge the Office of a Carver, a Butler, a Brewer, or such like, or to pale the Lord's Park, to tile the Lord's Houses, or to thatch his Barns, or *similia*: which are corporal Services tending to the private Profit of the Lord; if, I say, any Freeholder refuseth to do any of these Services, being bound unto them by his Tenure, then may the Lord lawfully distrain his Cattle or his Goods, and detain them, until Satisfaction be given by performing such Services as the Law doth require. And the same Remedy which the Law hath provided for corporal Services, is likewise provided for annual Services.

For if any Freeholder refuseth to pay any annual Rent, or to discharge any annual Payment, according to his Tenure; then may the Lord lawfully distrain, and in a Replevin brought by the Tenant, may avow the Distress, and justifie the taking. But no Action of Debt will lie for these annual Services, no more than for corporal Services: For it is a Ground in Law, that as long as the Rent continueth of any Estate or Frank-tenement, no Action of Debt lieth for the Arrearages of the Rent, nor for any other Service whatsoever.

Acci-

Accidental Services,
how got.

Accidental Services are gotten by many differing Means.
 1. By Seizure only, as the Wardship of the Heir's Body, together with the Wails, Estrays, Wrecks, Deodands, and such like Forfeitures of Goods. 2. By the Entry only, as the Wardship of the Heir's Land, together with Lands forfeited to the Lord, either upon the Breach of some Condition, or upon an Alienation in Mortmain. 3. By Seizure or Distress, as Heriot-Services, contrary to the Opinion of some who held them gainable by Distress only, and not by Seizure. 4. By Action, as Heriot-Customs; for upon the Eloignement of the best Beast the Lord may maintain an Action of Detinue against the Heir. 5. By Entry or Action, as Lands forfeited to the Lord by the ceasing of his Tenant, or Escheat accruing unto the Lord, either upon the Attainder or Death of his Tenant without Heir: In the first, the Lord may enter or maintain a Writ of *Cessavit*; in the second, the Lord may enter or maintain a Writ of *Escheat*. 6. By Distress or Action, as Reliefs and Amerciaments. For Reliefs the Lord may distrain, or bring an Action of Debt. Neither doth this any whit impugn the former Ground, that as long as the Rent doth continue, &c. because indeed Relief is the Fruit and Approvement of Services, rather than any Service. And for Amerciaments the Lord may either distrain or bring an Action of Debt.

S E C T. IV.

Of the Rights of the Tenant, and the Engagements of the Lord.

TH E Rights of the Copyholder will best appear by enquiring into the Interest Copyholders have in their Estates, and that will appear to be very strenuous; for altho' customary Tenants are termed in Law, Tenants at Will, yet they are not simply so, nor meerly Tenants at Will, for every Copyholder is but only Tenant at Will *secundum consuetudinem Manerii*, which Custom warrants his Possession, and therefore it is a more certain Estate than an Estate at Will; for the Copyholder may justifie against his Lord, so cannot a Tenant at Will, whose Estate is determined at the Will and Pleasure of his Lessor: And although his Estate is but by Custom, and by no Conveyance the Estate is raised, it is as material, so as it be an Estate: And this Estate being supported by Custom is known in Law an Estate, and so accounted in Law: And the

Wh^t in-
terest a
Copyhold-
er hath in
his Estate.

same Law hath notably distinguished Copyhold Tenancies by Custom, and Tenancies at Will by the Common Law: For a Copyholder shall do Fealty, shall have Aid of his Lord in an Action of Trespass, shall have and maintain an Action of Trespass against his Lord, his Wife shall be endowed, the Husband shall be Tenant by the Courtesy without any new Admittance, but this is by Custom, and only in some Manors.

8 Eliz.

And it was adjudged in the Common Pleas, 8 Eliz, That if a Copyholder surrender to the Use of another for Years, the Lessee dieth, his Executors shall all have the Residue of the Term without any Admittance. Mich. 14 & 15 Eliz. A Copyholder made a Lease for Years by Indenture, warranted by the Custom: It was adjudged, That the Lessee should maintain *Ejectione firmæ*, although it was objected, that if it were so, then if the Plaintiff doth recover, he shall have *Habere facias possessionem*, and then Copyholds should be ordered by the Laws of the Land. 10 Eliz. Lord and Copyholder for Life, the Lord grants a Rent-charge out of the Manor, whereof the Copyhold is Parcel, the Copyholder surrenders to the Use of A. who is admitted accordingly, he shall not hold it charged; but if the Copyholder dieth, so that his Estate is determined, and the Lord granteth to a Stranger *de novo*, to hold the said Land by Copy, this new Tenant shall hold the Land charged

Leon. Rep.
1 Part
f. 8. Mich.
25 & 26
Eliz.

Leon. Rep. Part 1. fol. 8. Mich. 25 & 26 Eliz.

*Copyholder-
er and Te-
nant at
Will.
Bulst.
Part 1.
fol. 51.*

Tenant by Copy of Court-Roll hath an Inheritance by the Custom; but when he doth that which is contrary to the Custom, he shall be then in no better Condition than a bare Tenant at Will. *Bulst. Part 1. fol. 52.* so that performing the Duties and Services according to the Custom, doth so establish and fix the Estate, that the same by the Custom of the Manor is descendible, and his Heirs shall inherit the same; and therefore his Estate is not merely (as I have said before) *ad voluntatem Domini*, but *ad voluntatem Domini secundum consuetudinem Manerii*; so that the Custom of the Manor is the Soul and Life, and also the chief Basis upon which stands the whole Fabrick of Copyhold Estates; for without Custom, or if they break their Custom, they are subject to the Lord's Will.

7 E. 4.

*Tenant
may have
an Action
of Tres-
pass a-
gainst the
Lord.*

And by Custom a Copyholder is as well inheritable to have his Land according to the Custom, as he who hath a Freehold at the Common Law, for *Consuetudo est altera Lex*, Custom and Usage Time out of Mind, &c. may create and consolidate Inheritances, *Consuetudo vincit legem*. 7 E. 4. *Danby Chief Justice* laid, That a Copyholder is as well inheritable to have his Land according to the Custom, as he who hath Freehold at the Common Law. Co. 4. 21.

If Tenant by Custom paying his Services be ejected by his Lord, he may have an Action of Trespass. 21 E. 8o. Co. 4.

73.

If a Woman Copyholder in Fee have a Husband, who hath Issue, and the Wife dieth, the Husband shall not be Tenant by the Courtesy, without special Custom. *Co. 4. 22.*

No Tenant by the Courtesy without special Custom. The Heir of a Copyholder not bound to come to any Court during his Nonage.

If a Copyholder die, his Heir within Age, the Heir is not obliged to come to any Court, during his Nonage, to pray Admittance, or to render his Fine. Also if the Death of the Ancestor be not presented, nor Proclamation, it is not any Detriment, although he be of full Age. *Leom. Rep. Part 1. fol. 128. Pascb. Eliz. B.R.*

Whether or no a Copyholder may lop Trees.

Brownl. Rep. Part 1. fol. 231. Swain and Becket. A Question was, That whereas there is a Manor wherein are Copyholders for Life, who used to lop Trees growing upon the Copyholds, for their necessary Fire, and Repair of their customary Tenements, the Lord of the Manor maketh a Lease of the Manor for Years, excepting the Trees. The Lessee of the Manor granteth a Copy for Life; the Copyholder loppeth his Trees growing in his Copyhold; whether or no he might do it by Law was the Doubt of the Jury. And it was held by all the Court, *Hill. 6 Jac.* that the Copyholder might lop the Trees, because he is in by the Custom which is above the Lord's Estate after he is admitted, and that the Copyhold depends not upon the Lord's Interest: And that the Trees excepted, and the Soil remained Parcel of the Manor, because the Lease was but for Years: But if the Lease had been for Life, it had been otherwise, because it had been severed from the Manor.

Copyholder for Life cannot claim Custom to cut down and fell Trees.

But Note, That in Justice Crook's Reports, *Part 1. fol. 180.* That a Copyholder for Life may cut down and fell Timber-Trees, and dispose of them at his Pleasure, is a void and unreasonable Custom, and not allowable by Law; for it is a Destruction of the Inheritance, and against the Nature of a Copyholder for Life. For a Copyholder hath but a particular Estate in the Land, and so he hath in the Trees. And it is unreasonable that he should cut down, sell and destroy the Inheritance, and it would be to the great Prejudice of those who succeeded, for they should not have to maintain the House and the Plough. And it is against the Nature of the Estate that he should do Acts in Destruction of his Estate; therefore Customs which maintain them are allowable, but not *e converso*; *Vide 24 Ed. 3. Barr. 77. 21 H. 7. 40. 11 H. 7. 14. 9 H. 4. Wals. 59.*

If a Copyholder of Inheritance sell his Copyhold to one of his Heirs, this shall descend; and no Tenant by the Courtesy, nor yet Dower, shall be thereof, without a special Custom for the same. *Bulb. Part 2. fol. 275. Mich. 1531.*

No Tenant by the Courtesy nor Dower shall be of Copyhold Lands. *Leom. Rep. Part 1.*

If I give all my Lands, Tenements, and Hereditaments in D. my Copyholds do not pass. *Leom. Rep. Part 1. 126.*

An Estate-tail cannot be of Copyhold Lands, unless it be in Case where it hath been used; for the Statute *de donis conditionalibus* shall not entitle to such customary Lands, but to Lands which are at Common Law; and therefore an Estate-tail cannot be of those customary Lands, but in Case where it hath been used Time out of Mind. *Popb. fol. 34.* And it was holden afterwards, that an Estate-tail was wrought out of Copyhold Land by the Equity of the Statute *de donis conditionalibus*, for otherwise it cannot be that there can be any Estate-tail of Copyhold Land, for by Usage it cannot be maintained, because that no Estate-tail was known in Law before this Statute, but all were Fee-simple; and after this Statute it cannot be by Usage, because this is the Time of Limitation, after which an Usage cannot make a Prescription, as appeareth *22 & 23 Eliz. in Dyer.*

And by *8 Eliz.* a Custom cannot be made after *Westm. 2.* And what Estates are of Copyhold Land, appeareth expressly in *Littleton* in his Chapter of *Tenants by Copyhold, &c.* And in *Brook, Title Tenant by Copyhold, &c.* *15 H. 8.*

In both which it appears, that a Plaintiff lieth in Copyhold Land in the Nature of a Formedon in the Discender at the Common Law, and this could not be before the Statute *de donis conditionalibus* for such Land, because that before that Statute there was not any Formedon in the Discender at Common Law, and therefore the Statute helps them for their Remedy for intailed Land, which is but customary by Equity.

And if the Action shall be given by Equity for the Land, why shall not the Statute by the same Equity work to make an Estate in Tail also of this Nature of the Land? *Popb. ibid.*

And Copyholds are now become by Usage of such Estates, that Laws allow them to be good against the Lords themselves, they performing their Customs and Services, and therefore are guided by the Guides and Rules of the Common Law. *Dyer Trin. 12 Eliz.* And to say, that Estates of Copyhold Land are not warranted but by Custom, and every Custom lies in Usage; and without Usage a Custom cannot be, is true; but in the Usage of the greater, the lesser is always implied, *omne majus in se continet minus:* As by Usage three Lives have been granted by Copy of Court-Roll, but never within Memory, two or one alone, yet the Grant of one or two Lives only is warrantable by this Custom: For the Use of the greater Number of Lives, warrants the lesser Number, but not *femore.*

If the Copyholder by his Letter of Attorney appoint the Son of his Farmer his Attorney, to do the Services for him due for his Copyhold; such a Person so constituted and appointed, may effoin for the Copyholder, but not do the Services

A Copyholder may assign one to effoin for him, but not to do his Service.

vices for him ; for none can do the same but the Tenant himself. *Leon. Part I. fol. 139.*

Copyhold Land is not extendable upon a Statute-Staple, but upon the Statute of Bankrupts it is extendable. *Brown. Part I. 34.* As long as a Copyhold of Inheritance is in the Tenant's Hands, it is not liable to any Estate or Charge of the Lord ; as Dower, Courtesy, *Elegit*, Statute, &c. But when it is in the Lord's Hands, it is liable. *Co. 4. 22.* But a Custom in this Case may make it chargeable. *Calibr. 88, 89, 92, 93.*

A Copyholder need not to alledge a Custom to make a Surrender, or to lease his Copyhold Land for a Year, for by the general Custom of England Copyholders may do so ; if a Copyholder that is Heir dwell at London, the Lord of the Copyhold Manor may make the customary Proclamations for the Heir to come and be admitted, and if he omit to come and be admitted, and if he refuse or neglect to come, the Lord may seize the Lands ; but this is only a Seizure *quousque* he come in, and not properly a Forfeiture.

Copyholder by Surrender or by Nomination, by Force of a Custom precedent, desires his Lord at his Court to admit him to the Copyhold Estate, and offers him his Fine, the Lord refuses, he cannot take the Profits before Admittance, here is damnum & injuria : Whether for Refusal he may have an Action of the Case or not ? And it was resolved, Pascb. 13 Jac. B. R. That an Action of the Case lies not against the Lord for his Refusal to admit him, without a special Custom or Prescription for the same, *Omnis innovatio plus novitate perturbat, quam utilitate prodest* ; for if upon every such Refusal an Action shall be brought, this will introduce many Inconveniences. *Co. 4. 22, in Brown's Case.* But note, That in all Cases of Ministerial Offices, if they refuse to do their Offices, Actions upon the Case shall well lie against them, as against the Clerk of the Enrolments, if he refuseth to enrol a Deed, an Action on the Case lies, but the Law is otherwise in Places of Trust. *2 Balf. 337.*

C H A P. III.

Of Courts-Baron and Courts of Survey.

IN Courts-Baron two Things seem considerable, *viz.* its Members and their Duty, and the Jurisdiction of the Court, and the Manner 'tis held; of which we will discourse in this Chapter, and conclude the same with select Precedents of such Things as concern it.

Of what it consisteth, This Court-Baron appertaining to a Manor consisteth of four special Parts, *viz.*

1. **The Lord.**

2. **The Steward.**

3. **The Tenant.**

4. **The Bailiff.**

It is defined to be an Assembly of these Parts together with, in the same Manor; and it is likewise duplicate, *viz.*

The Design of this Court.

1. The first is for the taking Care, Counsel, and Inquiry of Causes concerning the same Manor; as for the Trials or Titles of the Land, and taking and passing of Estates, Surrenders, Admittances and Grants, and to see Justice duly executed, and the Acts and Ordinances there done to be recorded in the Rolls of the same Court, which Rolls are the Evidences of all Ordinances, Duties and Customs, and Conveyances between the Lords and the Tenants of the same Manor, and are to be entred by the Steward, or an Officer indifferent between the Lord and his Tenants, and the same Rolls to remain with the Lord, thereby to know his Tenants, his Rents, his Fines, his Customs, and his Service. And the particular Grant of every Copyhold, to be copied out of the Rolls, and the Copies thereof to be delivered to every particular Tenant, neither can they make any other Title to their said Tenements, but by their said Copy; and this is called the Copyholder's Court, and herein the Steward is Judge.

2. The

2. The other is for the Trial of Actions under the Sum of forty Shillings, of the Nature of the County-Court, of which we have copiously treated in the first Part of this Work, and therefore here not necessary. And herein the Freeholders are Judges. But to return to the Copyholder's Court.

These Courts differ from Courts-Leet in divers Respects.

1. In this, that Courts-Baron by the Law may be kept once every three Weeks, or (as some think) as often as it shall please the Lord; though for the better Ease both of Lords and Tenants they are kept but very seldom: But a Court-Leet by the Statute of *Magna Charta* is to be kept but twice every Year; one Time within a Month after *Easter*, and another Time within a Month after *Michaelmas*.
2. In this, that Courts-Baron may be kept in any Place within the Manor, (contrary to the Opinion of *Brian*) but a Court-Leet by the Statute of *Magna Charta* is to be kept *in certo loco ac determinato* within the Precinct.
3. In this, that originally Courts-Baron belonged unto inferior Lords of Manors; but Courts-Leet originally belonged unto the King.
4. In this, that Courts-Baron are incident unto every Manor, so that every Lord of a Manor may keep a Court-Baron; but few have Leets: For inferior Lords of Manors cannot keep Court-Leets without Special Prescription, or some special Patent from the King.
5. In this, that in Courts Baron the Suitors are Judges; but in Court-Leets the Steward is Judge.
6. In this, that in Courts-Baron the Jury consisteth oftentimes of less than twelve, in Courts-Leet never. The Reason of that is, because none are impanelled upon the Jury in Courts-Baron but Freeholders of the same Manor; but in Courts-Leet Strangers are oftentimes impanelled.
7. In this, that Courts-Baron cannot subsist without two Suitors *ad minimum*; but Courts-Leet can well subsist without any Suitors.
8. In this, that Courts-Baron enquire of no Offences committed against the King; but Courts-Leet enquire of all Offences, under High Treason, committed against the Crown and Dignity of the King.

In many other Respects they differ: As that a Writ of Error lieth upon a Judgment given in a Court-Leet, but not in a Court-Baron. So in a Court-Leet a *Capias* lieth; but in a Court-Baron, instead of a *Capias*, is sued an Attachment by Goods. So in a Court-Baron an Action of Debt lieth for the Lord himself, because the Suitors are Judges; but in a Court-Leet the Lord cannot maintain any Action for himself, because the Steward is Judge.

How
Courts-
Baron and
Leets dif-
fer.
Magna
Charta,
c. 35. 31
E. 3. c. 15.

Five Things are necessarily appertaining to a Manor.

There are five Things necessarily appurtenant to a Manor and Court-Baron, viz.

1. The Lord is chief to command and appoint.
2. The Steward to direct and record.
3. The Freeholders to affeer and judge.
4. The Copyholders to inform and present.
5. The Bailiff to attend and execute, &c.

And all these united make a perfect Execution of Justice, and Judgment in Courts-Baron, and without all these a Court-Baron cannot be held in its proper Nature, in Respect of all Causes appertaining to the perfect Jurisdiction of a Court-Baron. But to make a more particular Demonstration of their distinct Authorities and Offices.

Of the
Lord.

1. And first of the Lord, as he is chief in Place, so in Authority, and he officiateth in three several Places, viz. the one of a Chancellor, in Cases of Equity; the other of a Justice, in Matter of Right; and the third of himself, in Cases proper and particular to himself.

Of the
Steward.

2. The Steward doth act the Part of several Persons, viz. Judge and Orderer in Cases of Copyhold; and also a Minister and Register to record and enter Things into the Court-Rolls, and in both these to be indifferent between the Lord and his Tenants.

The Free-
holders.

3. The Freeholders do likewise execute two Parts, that is, to affeer, and judge Amerciaments, and to return and certifie Judgments.

The Copy-
holders.

4. The Copyholders hold two distinct Places, viz. to inform Offences committed against the Lord within the Manor, and to present such Things, as shall be given in Charge by the Steward.

The Bailiff.

5. The Bailiff officiates two Parts, viz. to execute the Process, and Mandates of the Court, and also to return into the Court the Execution of the same Process, *Ex quod sit ita justus, quod ob vindictam vel cupiditatem non querat versus tenentes Domini, vel aliquos sibi subditos, occasiones injustas, per quas destrui debeat seu graviter amerciari.*

The Lord's Authority consisteth chiefly in these Things.

The Lord's Authority. 1. In punishing Offences and Misdemeanors committed within his Precincts; as not Performance of Customs, Breach of By-Laws, not discharging of Duties, and such like.

2. In

*Fleta, lib. 2.
cap. 73.*

2. In deciding Controversies arising about the Title of Copyhold Land lying within his Bounds; and when he sitteth as Judge in Court to end Debates of this Nature, he is not tied to the strict Form of the Common Law; for he is a Chancellor in his Court, and may redress Matters in Conscience upon Bill exhibited, where the Common Law will afford no Remedy in the same Kind; as to insist in one familiar Example. If I surrender a Copyhold to the Use of a Stranger, upon Confidence that such Debts being by me discharged, he shall surrender back this Copyhold; I upon Discharge of the Debt demand a Surrender, and he refuseth; at the Common Law I were left remediless, this being a bare Confidence, and no Condition; but upon Bill exhibited in the Lord's Court I shall be relieved, for the Lord upon Proof of the Matter may seize the Copyhold, and re-admit me, according to the Effect of the Confidence.

2. In admitting Copyhold. And in this customary Power of Admittance the Lord doth somewhat outstrip the Steward; for the Lord may make either Admittances upon voluntary Grants, Admittances upon Surrenders, Admittances upon Descents, in any Place where he pleaseth out of the Manor, but so cannot the Steward: And in giving Licence to Copyholders to alien by Deed; and in his Point of Licence the Lord's Authority doth exceed the Steward's Authority. For though some are of Opinion, that it is both usual and warrantable for the Steward of a Manor, in Absence of his Lord, to license a Copyholder in full Court to alien by Deed for as many Years as he shall think good, because he is Judge in the Court, and besides the Entry of it in the Court-Roll is in this Manner, *Ad hanc Curiam J. S. petit licentiam Domini admittendi, &c. Cui Dominus licentiam dat, &c.* and therefore this Licence being granted in the Lord's Name in full Court, the Lord shall never enter for a Forfeiture, but shall ever be estopped to say the contrary, but that he did give Licence: yet (under Reformation be it spoken) I must mistrust the Truth of this Opinion; for this Power of licensing Copyholders to alien by Deed is not customary, for then it were as proper to the Steward as to the Lord; but it is a Power of Interest annexed to the Person of the Lord in Respect of his Estate in the Manor, and not in any other collateral Respect; and therefore the Steward having a bare Authority to execute what the Custom of the Manor doth warrant, *sans Doubt* he cannot *virtute officii* grant any unwarrantable Licence to alien by Deed, no more than to commit Waste; for the one Act as well as the other tendeth to the Breach of Custom, and both of them, without a sufficient Allowance, amount to the Forfeiture of a Copyhold; but by express Words in the Steward's Patent, or by special Authority given him by the Lord, or by some particular Custom warranting the same, the Steward

ard may in Court lawfully license Copyholders to alien as well as the Lord may.

Of the Office and Duty of the Steward.

*Co. super
Litt. f. 61.
a. b.*

*Coke's Co-
pyholder,
St. 45.*

*Fleta, I. 2.
cap. 26.*

Steward in Latin is called *Seneschallus*, and is derived from the French Word *Sein*, a House or Place, and *Schalt*, an Officer or Governour; some say that *Sen* is an ancient Word for Justice, so as *Seneschal* should signifie *Officarius iustitiae*.

As to the Word *Steward*, it seemeth to be compounded of *Stew* and *Ward*, and is a Word of many Applications; yet always signifieth an Officer of chief Account within the Place of his Sway. In this Place it signifieth an Officer of Justice, *viz.* A *Keeper of Courts*, &c. therefore for the Prevention of many Inconveniences, it would be no Disadvantage to Lords to elect and constitute such as are exercised in the Studies of the provincial Laws of this Commonwealth, and the Customs of Manors. *Fleta*, lib. 2. cap. 26. describes the Office of a Steward, and counselleth Lords of Manors and Liberties to provide or elect their Stewards in these Words, *Provideat sibi Dominus de Seneschallo circumspecto, & fideli, viro provido, & discreto & graciose, humili, pudico, pacifico & modesto, qui in legibus consuetudinibusque provincie & officio seneschalli se cognoseat, & jura Domini sui in omnibus teneri affectet, &c. cuius officium est curias tenere Maneriorum, & de substractionibus consuetudinum, servitorum, reddituum, sectarum ad curiam, mercata, molendina Domini, & ad vias Franci-plegiorum, aliarumq; libertatum Domino pertinentium inquirat, &c.* By which Description it is observed, that he ought to have a double Qualification, *viz.*

1. *In Moralibus.*
2. *In Judicialibus.*

1. *In Moralibus*, he must be qualified with these Properties, *viz.* Circumspection, Fidelity, Providence, Discretion, &c. which may be reduced to two general Heads, to wit, *Verity* and *Industry*.

2. *In Judicialibus*, and therein he must be attended by the Property of Knowledge, as to be expert in the Laws of the Country, and the Customs of the Manor, and have Ability to instruct and direct the Bailiffs, and other Ministers in dubious Things.

Let us now descend to demonstrate his Retainer into Office, &c.

A Lord of a Manor may by Parol retain one to be Steward of his Manor, and to hold the Courts thereof, as well as a Bailiff may be, and that by Word, and this Retainer shall be as effectual in all Points before Discharge as the most effectual Institution by Patent; yet most commonly they have Patents for their Office. Co. 4. 30. and therewith accordeth 8 Eliz. Dyer 248. Likewise it was adjudged in the Common Pleas in the Lady Julian Holcroft's Case, that whereas one was generally retained by the Lord of a Manor by Parol to be Steward of a Manor, and to keep his Courts, that such Steward may make Surrender of customary Tenants out of the Court, or make voluntary Admittances, or any other Act incident to the Office of a Steward, for till such Steward be discharged, he is Steward of the Manor, as well by the Retainer by Word as if he had a Grant thereof by Patent. Leon. Pt. 1. fol. 309. Coke's fol. 309. Copyholder, Sect. 45.

Co. Rep. 4.
30. Dyer
8 Eliz. 248.

He represents the Person of the Lord in many Things, for in the Absence of the Lord he sitteth in Court as Judge to punish Offences, to determine Controversies, redress Injuries, &c. He acts some Things in the Lord's Name, and not in his own Name: For if the Steward admit any Copyholder, or by special Authority, or by particular Custom, licence a Copyholder to alien, this Admittance and Licence shall be made in the Lord's Name, and the Entry in the Roll shall be, *Quod Do-* minus per *Senechallum admisit & licentiauit, &c.* Coke of Copyholders, f. 143. fol. 143. See 4 Co. fol. 30.

Co. 4 OF
Copyholders,
minus per
Senechallum admisit & licentiauit, &c. Coke of Copyholders, f. 143.

He must take Care to record and inroll all the Conveyances of Estates; for it hath been holden by some, That if the Lord in open Court grant a Copyhold Estate, and no Entry is made thereof in the Court-Rolls, that the Grant is invalid, and that no collateral Grant will make it valid. Calib. fol. 57. But if the Tenant have no Copy, or lose his Copy, the Roll of the Court is a good Evidence; and if the Wills be lost, it is thought clearly it may be supplied by Proof. Ibid.

Careb. f. 47.

At every Court he is to swear some of the Tenants (which is called the Homage) these he chargeth with the Articles before-mentioned, and upon them they do present; and upon this Presentment the Steward is to proceed as upon the Presentment in a Leet, save only that (as it is said) the Lord cannot bring an Action of Debt, but is only to distrain for the Amerciament in this Court. 2 H. 4. 24. For by the Common Law he hath no Authority to assess Amerciaments or Fines in a Court-Baron, but the Suitors, for they are the Judges, and not the Steward. Leon. Rep. Part 1. 209.

2 H. 4. 24.
Leon. Pt. 1.
f. 299.

The Law is not very curious in examining the Imperfections of the Steward's Person, nor the Unlawfulness of his Authority; for he is an Infant, or *non compas mentis*, an Idiot or Lunatick, an Outlaw, or an Excommunicate, yet what

Things

Things soever he performeth as incident to his Place, can never be avoided for any such Disability, because he performeth them as a Judge, or at least as Custom's Instrument: and for his Authority, though it prove but Counterfeit if it come to exact Trial, yet if in Appearance or outward Shew it seemeth currant, that is, sufficient. As if I grant the Stewardship of my Manor of *Dale* by Patent; and in the Paten-tee's Absence a Stranger by my Appointment keepeth Court, this is authentical. If a Grant of a Stewardship be made to one, and for some Fault or Defect in the Grant it is avoidable, yet Courts kept by him before the Avoidance shall stand in Force; and whatsoever he did as Steward is ever unavoidable. As if a Corporation retaineth a Steward by Parol, and he keepeth a Court, punisheth Offences, decideth Controversies, taketh Surrenders, maketh Admittances either upon Surrenders, or Descents; these Acts being judicial shall ever stand for currant, though his Authority be grounded upon a wrong Foundation, for a Corporation cannot institute any such Officer without Writing. And so if the King's Auditor or Receiver retain a Steward by Parol, he may lawfully execute any judicial Act; but Things which he performeth as Custom's Instrument, not as Judge, such as are voluntary Admittances, neither in the Retainer by the Corporation, nor in this Retainer by the King's Officers, shall any whit bind; but if a Stranger, without the Appointment of the Lord, or Consent of the Right Steward, or without any Colour of Authority, will of his own Head come into a Manor, and keep a Court; it seemeth that the Performance of any judicial Duty, or the executing of any A& whatsoever, will not be warranted, especially if the Court be kept without Warning given to the Bailiff by Precept, according to the Custom.

Forfeiture
of a Stew-
ardship.

The Office of a Steward may be forfeited three manner of Ways.

1. By Abuser.
2. By Non-user.
3. By Refuser.

1. By Abuser. As if the Steward burn the Court-Rolls, or if he taketh a Bribe to wink at any Offence, or use Partiality in any Cause depending before him; these and the like Abuses will make him subject to a Forfeiture.

2. By Nonuser. As if the Steward by his Patent being tied to keep Court at certain Times of the Year, without Request to be made by the Lord, faileth, and by his Failer the Lord receive any Prejudice, this is a Forfeiture. But if the Lord be not damaged, then this Nonuser is no Forfeiture.

By Refusel the Office of a Steward may be thus forfeited: If the Steward be tied by his Patent to keep Court upon a Demand or Request to be made by the Lord, if the Lord demandeth or requesteth him to keep a Court, and he faileth; this is a Forfeiture, though the Lord be thereby nothing damfihed. And thus much of a Steward.

The Under-Steward is the Steward's Deputy, and some times appointed by Writing, and sometimes by Parol; and the Extent Under-Steward; of his Authority is as great as the Steward's own Authority, ship. and his Office consisteth in Performance of the self-same Duties that the High Steward himself is to perform; only in this Point the Power of the Steward goeth beyond the Power of the Under-Steward, that the Steward can make an Admittance out of Court, and it shall stand good, if Entry be made in the Court-Roll, that he that is admitted hath paid his Fine, and hath done Fealty; but the Under-Steward, tho' he may take a Surrender out of the Court, yet he cannot make any Admittance out of Court, without special Authority, or particular Custom.

In Admittances made by Under-Stewards, as well as in Admittances made by the Stewards themselves, it is good Order to express in the Copy, and in the Court-Roll, the Name of the Under-Steward or the Steward, because in pleading any Admittance, a Man must say, That he was admitted by such a one Under-Steward, naming his Name.

Of the Time when, and Place where, this Court is to be kept.

THE usual and accustomed Time is to keep it once every three Weeks; and altho' no Court hath Time out of Mind been holden within the Manor, yet it is not thereby extinct and lost, for it is incident to a Manor of Common Right. Co. L. 4. 26. and 6. 27. And as to the Place where it is to be kept, it must be kept and holden in any Place within the Manor, as the County-Court, in any Place within the County, and Hundred-Court, in any Place within the Hundred: For as to every Manor a Court is requisite and incident to it; so it is transitory throughout the whole Manor, and every Part of the Demesnes of the Manor is capable of a Court to be holden there. But if it be holden out of the Manor, it is void, unless a Lord being seized of two or three Manors, and hath usually, Time out of Mind, holden at one of his Manors, Courts for all his said Manors, there by Custom such Courts are sufficient in Law, if they be not holden within the several Manors.

Co. L. 4. 26.
Co. 6. 27.

Owen's Rep.

f. 35. Mic.

13. & 14.

Eliz. Leo-

nard's Rep.

133. Marib

against

Smith. Ca.

4. f. 24.

Murrel and

Smith, and

f. 27. Clif-

ton's Cale.

The Manner and Method of keeping the Court.

After the Essoins are entred, make Proclamation, That if any one will enter any Plaintiff, that he come forth and shall be heard; and if any come enter the Plaintiff thus:

A. B. queritur de C. D. de placito debiti 39 s. 11 d.

A. B. queritur de E. F. de placito Transfer. super casum ad damnum 30 s. 10 d.

C. D. queritur de G. H. de placito quod reddat bona & cattelle ad valorem 28 s.

H. I. queritur de J. S. de placito Transfer. & Infus. Ex. ad damnum 30 s.

Then examine the Rolls, and if there be any old Plaints depending in them, call for the Parties.

Then enter the Amercements thus;

6 d. 6 d. 6 d. 6 d. 6 d.
A. B. Miles, C. D. Arm', E. F. Vid. G. H. & J. K.
Quilibet eorum amerciatur ad hanc Cur' per Homagium quia non
compernit ad hanc Cur' ad faciend' scelam Cur' ad sex denar' prout
pacis super eorum separabil. capitibus.

M. H. Vid. quia non compernit ad hanc Cur' ad faciend' scelam
Cur' ac in faciend' Scelam Cur' deficit per quamplurimos annos jam
ultimus clados amerciatur per Homag. ad decem solid.

W. S. amercial' per Homagium quia succidit quinque alnos in mo-
rade S. ad unum solid.

Then command the Bailliff to call the Jurors.

J. D.	C. D.	A. B.
R. E.	H. I.	C. D.
S. T.	K. L.	E. F.
U. W.	M. N.	R. P.

Jurors

Then call the Foreman to the Book, and swear him after this Manner:

**The Fore-
man's
Oath.**

You shall swear that you as Foreman of this Homage, with the rest of your Fellows, shall duly enquire, and true Presentment make of all such Articles and Things as shall be given you in Charge, and therin you shall spare no Man, for Love, Favour, or Affection, nor present

present any Man for Malice, Hated or Envy, but according as things
bere presentable, shall or may come to your Knowledge, by Informati-
on or otherwise: So shall you make thereof true Presentments without
Concealment. So help you God.

The Foreman being sworn, call the rest by their Names,
and swear them, by four at a Time, in this Manner:

The same Oath that J. D. your Foreman, hath taken before you on his Part, you and every one of you shall observe and keep on your Parts. The Oath of the rest.
So help you God.

After the Inquest is thus impanelled and sworn, make another Oyes, and say;

You good Men that are impanelled, draw near, and you, and all other, keep Silence during the Charge. Proclamation.

And then proceed to give a Charge, which may be in the following Terms.

Gentlemen of the Homage,

WE are here met on a very solemn Occasion; 'tis to hold a Court of Justice; nor is there any of you here that are not bound by your Oath, as well as by your Tenure, to the due Discharge of your several Duties. How sacred a Tie an Oath is, how unpardonable a Crime is Perjury, I believe none here are Ignorant? I shall therefore on this Occasion discourse to you on three Heads, which are more agreeable to my Station, and on which my Instructions may be necessary:

First, I shall endeavour to shew you to what you are bound by your Oath.

Secondly, I shall inform you of the Origin, Antiquity, and Authority of this Court.

And Lastly, Of the Articles of which you, Gentlemen, who are now sworn of the Homage, are more particularly obliged to enquire into.

I have already observed, That all the Tenants of this Manor, the Members of this Court, are under the Obligation of an Oath; this you all must be sensible of, having sworn Fealty, that is, to be faithful to the Lord of this Manor, and pay, perform and do, all the Rents, Customs and Services, due and accustomed, and at the Times assigned.

D d 2 The

Court-Baron.

The Part of a faithful Tenant, is not only to do his personal Duty, but also to disclose, and make known to the Lord, or me, his Steward, or to those that are now, and from Time to Time shall be sworn of the Homage, every Thing that he knows, the Knowledge whereof may be of Service, or the Concealment, an Injury or Detriment to the Lord; this Obligation is common to all the Tenants, and at all Times: But the Duty of you Gentlemen, that are now sworn of the Homage, goes farther; for you are obliged by the very Terms of the Oath I so lately administered to you, diligently to inquire of all such Things as shall be given you in Charge.

The second Thing I proposed to be the subject of my present Discourse, was the Origin of Manors, and the Antiquity and Authority of this Court. A very extensive Subject, not only necessary for the better understanding what I shall say in the Sequel, concerning the Lord's Rights, and the Tenant's Duties; but particularly so in these our Times, when Courts, by the Error of Lords, by placing mean, and unqualified Persons as their Stewards, are become rather the Subject of Contempt, than, as they ought, of Fear and Respect.

From the earliest Account that is brought down to us of Civil Government's being established in this our Isle, we shall find Manors, and consequently Court-Barons, they being ever inseparable. That there were Manors in the Time of our Saxon Ancestors, is past Doubt; and tho', as the learned Lord Chief Justice Coke has observed, they differ in Form, yet in Substance they agreed with those which now subsist. But to come to the Norman Conquest, the Time in which all our old Form of Government was, if not totally subverted, yet so altered, that it seemed a new Establishment.

We shall find Manors either created anew, or modelled to the Form we now see them in.

How this came to pass I now proceed to explain, as I find it done by that Great Lord Chancellor Bacon.

The Conqueror having obtained the Kingdom, took from the Saxons, as they had from the Natives of our Isle, what he thought fit, and gave the major Part of these Lands so taken, to such Great Men as had served him in his Expedition, reserving to himself such Services as he thought fit. Many of them were Military ones. (But all these are abolished by Stat. 12. Car. 2.) What he retained in his own Hands he manured by his Bondsmen, and these were called his Demesne-Lands, from the French Word, which signifies, In' Hands. The Great Lords to whom he gave these Lands, were called the King's Barons, and were originally all, and the only Lords of Parliament, which was then no more than an Assembly of the King's Barons; and this Assembly might very properly be called, whilst Things subsisted in the State they were so formed into, the King's

King's Court-Baron. Nor would it be easy to find any Difference betwixt the Form and Jurisdiction of that of Kings, and that of other Lords, but what consequently followed from the Pre-eminence the King had over the other Lords. Thus was our whole Kingdom, to use the most significant and happiest Expression of one of the ablest Writers of this Age, but one Great Seigniory or Lordship; The Barons to whom the Conqueror gave large Portions of Land, in a similitudinary Manner, and after the King's Example, gave Parts of their greater Grants to their Servants and Followers, reserving to themselves, from their Vassals, the self-same Service they owed to the King; even all the Military Tenures, with their Appendages and Homage, of which the inferior Lords were deprived by the same Act of Parliament. And as the King had part of his Lands in his own Hands, called his Demesnes, part held by his Vassals, for which he had their several Services; so that his Royalty consisted in Lands in Hand, and in Services; so did the Manors, which were the Subjects little Royalties, consist of Demesnes and Services, and still do, tho' the Nature of those Services, by the aforesaid A&t, has received a great Alteration: All the Freeholders who commonly held by Military Tenures, being now Tenants in Soccage. Such Lands as the Lord did not give to his Followers, as aforesaid, nor retain in his own Hands, were partly occupied by his Permission by his Bondsmen, who were mere Tenants at Will, and might at any Time be ejected. Memorials of such Permission, for the Satisfaction of the Lord, and settling the Rights of the Tenants amongst themselves, were enter'd, and Copies thereof were made by the Lord or his Steward, whence these Tenants.

The Memorials in process of Time becoming; when the Copyholder's Estate became certain, publick Records, and called Court Rolls. Hence we see that these Tenants, from the Nature of their Tenure, were called Tenants at Will, from the Evidence they had of their Right, Copyholders, and by their having gained in Time a more fixed and permanent Interest in their Estates, they are at this Day called, Tenants at Will, with this Addition, According to the Customs of the Manors. So that the former Copyholders, notwithstanding they yeilded, paid, performed and kept all the Duties, Rents, Customs and Services, yet were, without any Reason assigned, expellable at the mere Will of the Lord; tho' now in such Case, if not guilty of any Breach of their Duty, they cannot.

In some Lordships, after the Distribution of the Land in the Manner we have shewn, there still remained some waste Ground; this was called the Lord's Waste; and here originally,

nally, by the Connivance of the Lord's Officers, afterwards by the Toleration of the Lord's themselves, the Tenants Cattle used to run and eat that Gras, which 'twas not in former Days worth while to cut ; till at length by Custom the Tenants in most Manors claim a Right to the Use of such Waste, which from the Manner it was used, is called by the more Modern Appellation of Common; in this Court, Trials were originally amongst the Tenants, concerning their Rights to their Estates, and here only determinable : And 'tis more than probable, That all personal Actions were so too, those only excepted which were laid *Contra pacem Domini Regis* ; for whoever shall carefully peruse the old Rolls of Manors where the Courts have been regularly kept, will find Causes were there tried for above forty Shillings, and Tenants amerced for suing in the King's Courts, for Things determinable in the Lords. At present indeed, no Court-Baron can hold Plea of any Cause where the Demand is above forty Shillings. You see, Gentlemen, this Court is local with the first Institution of Government here, and you'll farther judge of its Jurisdiction by the Articles on which I shall direct your Enquiry, the third Thing I proposed to Discourse of, and to which I now proceed.

*We ought to begin amongst our selves ; and the first Subject of your Inquiry must be concerning the Members of this Court that don't this Day appear, and whether they are dead or alive ; if alive, you shall inquire who owe any Suit unto this Court, and at this Day have made Defaults, and present them, viz. All such as hold any Lands to sue unto this Court ; for of what Age soever, or of what Distance in dwelling such Tenant is, he must here appear, and do his Suit and Service, or else be amerced ; and this is called *Suit Service*, because the Land (as it were) is tied by this Service ; which by Law they are compellable to do every three Weeks ; but you shall omit the Names of such as are Essoined, because the Law allows several Excuses as reasonable ; and those who either want such, or out of disrespect to the Court, think not fit to offer them, shall be amerced.*

Suit by Co-parceners. 2. If there be diyers Coparceners who hold Lands of the Lord, to sue unto this Court, here the Lord shall have but one Suit of Court, and that of the eldest Coparcener ; and the other Sisters shall be Contributors ; and this is by the Statute of Marl. s. 9.

By joint Purchasors, 3. The same Law by the same Statute is of Joint Pur-

chasors.

4. But by the Statute of Quia emptores terrarum, made in the 9th Year of E. I. If a Tenant of this Manor hold Lands of his Lord ; for Example, 20 Acres of Land by 20 d. Rent, and Suit of Court, and doth alien these Lands to twenty several Men, and their Heirs, severally ; here the Lord shall have twenty several Suits of Court, where by his first Grant he had but one.

Where the Service shall be sever'd.

5. The Tenants of this Manor being Members of the Court by Virtue of the Tenures they hold their Land by ; you shall therefore inquire of what Alteration there has been amongst the Tenants since the last Court, or at any Time that hath not yet been presented ; and this Inquiry is also the more necessary that the Lord may know his Tenants that are to do him Services, and you that are the Tenants, who they are that have the Right of Common, and the like, which are incident to their Estates.

Change of Tenures.

6. The Changes which are amongst your selves, are either by ordinary or extraordinary Means : By the first the Lord gains a new Tenant subject and tied to the Performance of a Tenant, and of the same Services ; by the latter the Land it self in lieu of a Tenant.

Changes amongt the Tenures happen 2 ways.

7. The ordinary Ways the Tenants are changed, are first by a Tenant's Death ; 2dly, by his selling his Land.

8. In Case you find any Tenant's Death, you shall farther inquire and present what Tenure the Land was held by, viz. by Copyhold or Freehold.

2dly, The Name and Quantity thereof.

3dly, The Name and Age of the Heir, that I may commit his Custody as the Lord directs, if he be a Copyholder.

And lastly, What Profit is thereby accrued to the Lord, viz. Heriot, or Relief.

9. Tenant in Socage is, since the Military Tenures are taken away, the only Freeholder belonging to a Manor, and is where a Man holdeth Lands of his Lord by Fealty ; or by Fealty and Suit of Court ; or by Fealty, Suit of Court and a certain Rent ; or by a certain Rent ; if any of these Reservations be in a Deed made before the 18th Year of E. I. and that it be for all Services and Demands, this is Socage. And if such Tenant die, his Heir within Age, he shall be in ward to the next of Kin to whom the Inheritance cannot descend. As for example ; if the Lands do come to him upon the Part of his Father, he shall be in Protection be his Guardian of the next of Kin upon the Part of his Mother ; if they do come to him upon the Part of his Mother, he shall be under Government of the next of Kin on the Part of the Father, until such Time as this Pupil hath attainted his full Age of fourteen Years, and then he may enter upon his Tutor, call him to an Account, and only answering and allowing unto him his necessary Expences about his Person and Tenure.

Tenant in Socage, who.

The Lord's Profit by his Death.

10. And there is due unto the Lord by the Death of his Tenant, a Relief, that is, as much as one Year's Rent, payable to the Lord by the Death of this Tenant; and this is presently due after the Tenant hath attained to the Age of fourteen Years, the Lord is not to stay any longer Time for it; and if it is not paid, may immediately distrain for it.

If Tenant by Socage made any Feoffment to his Use.

11. Also, you shall enquire, whether any Tenant which held by Socage Tenure, did make any Feoffment in Fee to his Use, and died seized of the Use, his Heir being within Age, and no Will by him declared of the Use, and present it; for that the Lord shall have his Relief, as well as if he had died seized of the same Lands.

Copyholder shall pay a Fine, be admitted, and be Guardian.

12. Also, if a Copyholder die sole seized of any Lands or Tenements so holden, his Heir being of the Age of fourteen Years, then he shall pay a Fine unto the Lord, and do Fealty, and be admitted Tenant; but if the Heir be within the Age of fourteen Years, then some Guardian shall be admitted to occupy his Copyhold, and to pay, and do his Service due for the same, viz. If any Lands descend from the Father, then the Mother, or some of her next kindred, shall have the Occupation of the same Lands until the Heir be at Age, and they shall have a little Fine for the Guardianship, and the Heir at his Entry shall pay the whole Fine; you shall inquire thereof, and present the same.

Whether any Freeholder hath alienated any of his Freehold Lands.

13. Also you shall inquire, Whether any Freeholder hath alienated or sold away his Freehold Land or Tenements, or any Parcel of them, and present it; for he which hath purchased the Land, before he enter, ought to come and give Notice unto the Lord, that he hath purchased the same, and so the Lord shall know his Tenant, and the Service which the former paid unto the Lord shall be apportioned according unto the Value of the Lands.

Heriot-Service, Heriot-Custom.

14. Also you shall enquire, Whether any that held by Heriot-Service, or Heriot-Custom, died seized of any Lands or Tenements so holden, and present it, for their Service shall be apportioned: Also the Lord shall have of every of their several Parts divers Heriots at their several Deaths. Also if one Man have two several Parcels of Lands holden by Heriot-Service, and by two several Titles, and dieth seized of the same, the Lord shall have after his Death two Heriots.

Whether any Copyholder died seized of any such Lands. Forfeiture.

15. Also you shall enquire, If any Copyholder died seized of any Lands so holden, and present it; also whether any Copyholder hath made any Lease of his Copyhold, or otherwise alienated or sold the same, and present it, for it is a Forfeiture of his Copyhold: For if a Copyholder will alien or sell away his Copyhold, he ought to come into the Court and surrender the same into the Hands of the Lord, to the Use of him who shall have the Estate; or else out of the Court he

he ought to surrender it to the Bailiff, or to some of the Tenants of the Lordship, to the Use of him who shall have the Estate; and they to whom the Surrender is made, ought to present the same at the next Court, and then pay his Fine for the same, and take it to his Use in the Court, and do his endeavour to be admitted; and if he be not at the same Court, then the Lord shall have the mean Profits of the same Lands, all the Rent-Services and Reparations being deducted, until he be amerced of his Fine according to his Duty.

How a Copyholder ought to surrender his Copyhold.

16. Also you shall enquire, If any Copyholder hath made any Surrender of his Copyhold, or any Part thereof, since the last Court-day, or before, and present it, and into whose Hands it was made, and in whose Presence, or to whose Use; For at every Surrender the Lord ought to have a Fine, and the Party into whose Hands the Surrender is made, ought to come to the next Court, and present the same, and to yield up his Right into the Lord's Hands, to the Use of the Alience, according to the Trust reposed in him, or otherwise he forfeiteth his Copyhold, except he have a reasonable Excuse, for he doth as much as in him lies to defeat the Lord of his Fine, and also to defeat the other Party, to whose Use the Surrender was made.

Alienation of Copyhold Lands, Whether any Copyholder hath made any Surrender.

17. The extraordinary Method by which Alterations happen amongst the Tenants are those, as I have already observed, by which the Lord gets the Land in lieu of his Tenants Services, and this happens two Ways, viz. by Escheat or Forfeiture.

18. All the Land of this Manor was originally the first Lord's of this Manor, and by him portioned out at his Pleasure to such Persons as he thought fit on the first Institution of this Manor to make his Tenants. The present Lord, as he succeeded to the Estate, so has he to the Rights of the first Lord; and in like Manner, you that are the present Tenants succeed to the Rights of the first Tenants: Now as nothing was more obviously just, than that the Land given to a Tenant, should for want of Heirs of the Tenant revert and return, or, as we call it in our Law Phrase, escheat to the Giver, so doth every Estate in this Manor still, if the right Owner dies without Heirs, return to the Lord.

First by Escheat.

19. A Tenant may be said to die without Heirs three Manner of Ways: First, If no Person can claim as Heir by the Rules of the Common Law; as where a Family is extinct; nor is it necessary that the Tenant whose Family is extinct should die actually seized to entitle the Lord to the Escheat; therefore you shall enquire, whether any Tenant of his Lordship's hath committed any Petit Treason, Felonies or Murders, for which he was hanged, or for the which he had Judgment to be hanged, though afterwards he paid his

Escheat by Attainder.

Charge

Charge and was delivered to the Ordinary, and present it; And whether any Tenant hath committed any Petit Treason, Felony or Murder, for the which he hath abjured the Land, for which he was outlawed, or suffered Death, and present it; for in all those Cases, the Lord of whom the Lands are holden, shall have them by Escheat, and also the Evidences concerning the same. And tho' Presentment is not necessary in these Cases to intitle the Lord to the Escheat, yet it seems prudent to have these Rights of the Lord thus published, for the quieting Titles, and the Information of the Members of this Court.

The other Thing proposed to be here discoursed of was Forfeitures, which are grounded on the same Reason as Escheats; and to explain that, it must be remember'd that what I said of the present Lord's succeeding to the Rights of the first Erector of this Manor, and your succeeding to the first Tenants; and also, that when the first Lord gave Lands to his then first Tenants, reserving to himself certain Services, which they not performing, the Lands were to return to him again. This still is most evident in the Forms of your Admission, by which you who are the Tenants are admitted unto your several Estates, yeilding and paying the ancient Rent and accustomed Services; and those Words make a Condition precedent, which, if not performed, the Estate thereby granted reverts and returns to the Grantor.

Many Things work a Forfeiture, the most material whereof are as follows: First,

Mortmain. 20. The Statute of Mortmain, being the Stat. of Magna Charta, called *The Great Charter*. And that is, If any Tenant of this *Manor* hath made any Feoffment, Gift, Grant, or any Alienation to any Religious House, and their Successors, or to any Religious Person, and their Successors, or to any Guild, Fraternity or Corporation, and their Successors, not having first obtained the Licence of the King's Majesty, under the Great Seal of England, and the Licence of the Lord of this *Manor*, so to do, the Lord may enter, and take such Lands as forfeit within a Year and a Day. It is also holden by the Lord Brook, in his *Abridgment*, That a Lease made to any of these Uses for 100 or more Years, is *Mortmain*, and the Lord may take the same.

A Copyholder may not let longer Time than a Year and a Day without Licence, except it be by Custom that they may let for a longer Time; and if he do so, it is a Forfeiture, and present the same.

21. Also if any Copyholder let his Copyhold Land for longer Time than a Year and a Day without Licence, except it be by Custom that they may let for a longer Time; and if he do so, it is a Forfeiture, and present the same.

22. You shall also enquire, whether any Tenant for Years or Lifes, have granted any greater or larger Estate than they had in their Lands or Tenements, and present it; for that is a Forfeiture of their Estate.

The second Enquiry is of Wrongs and Offences.

The Wrongs and Offences of which we are here to take Cognisance, are variously divided by the Writers of our Law. Some with Respect to the Persons injured, have divided these Offences into Offences against the Lord, and into Offences against the Tenant; and as I conceive, very properly; for the Lord being the Head of this little Royalty, every Offence must be an Offence against him; the more adequate Division seems to be into Offences by private Tenants, and Offences by the Officers of this Royalty.

The Offences by private Persons are many in Number, the principal are as follows:

23. If there be any that do conceal any of the Lord's Lands, (that is) do hold them without his Licence; you shall enquire what Lands and Tenements the same are; what they contain; what they are worth by the Year; how long they have been detained, their Value, Rents, &c. withheld, and by whom, and present it.

Holding
Land with-
out Autho-
rity.

24. If there be any Rents, Customs or Services with-held from the Lord of this Manor, you shall inquire of it, and present it; but first you shall enquire, what Rents, Customs and Services the same are, by whom they are withdrawn; how long they have been detained, and in what Baillif's Time; forth of what Lands and Tenements the same are issuing, to the End the Lord may distrain for the same, and for the Arrearages.

25. You shall next enquire of Recuser; and that is, if Recuser, any Man occupy two Farms, the one within this Manor, and the other without the Manor; and at such Times as your Commons be good, and your Fields cast open, he bringeth his Cattle from the other Manor into this Manor here to Depasture; this is a Wrong, and you ought to enquire of it, and present it; for none can put Cattle merchandise upon the Common, such as he buyeth at one Fair to sell at another: Neither can any put the Cattle of Strangers upon the Common upon a false Pretence they are his own; but if he do so, he is a Trespasser.

26. If any have incroached any Parcel of the Lord's Incroach-
Wastes, though it be but a small Quantity, be it for in-att.
setting freight of his Hedge, his Ditch or Pale, or any
Easements about his House, yet it is a Wrong to the Lord;
you ought to enquire of it, and present it.

Trespass in
the Lord's
Demesnes
and Roy-
alties.

Bees and
Hawks.

Pound-
Breach.

Waif and
Stray.

Rescous.

What it is.

Break of
Pound.

27. If any have committed any Trespass in the Lord's Demesnes, be the same Land, Meadow, Pasture, Wood or Water; or if any have fowled or fished in the Lord's Rivers, or hawked or hunted in the Lordship, you shall enquire and present it.

28. You shall enquire if any have taken any Honey or Swarms of Bees within this Lordship, whereof the Owner is not known; or if any have taken any Hawks, or Ayries of Hawks, and present them.

29. If any Cattle have been pounded in the Lord's Pounds, and be thence delivered without Authority of Law; this is also enquirable and presentable.

30. You shall also enquire, Whether any Waif or Stray is, or was within the Lordship, and whether the Lord be answered of the same; if not, present by whom they are conveyed away: Also you shall enquire if any Heriot be conveyed away, and by whom, and present it.

31. You shall also enquire whether any Person have made Rescous against the Lord, or any other Officer, and present it.

Rescous is, When the Lord distraineth in the Land holden of him for Rent or Services in Arrear; or if the Lord come upon the Lands, and would distrain, and the Tenant, or some other, will not suffer him, this is Rescous. Likewise if the Lord distrain for Service behind, or for Damage-fasant, and in driving Cattle to Pound, the Beasts enter into the House of the Owner, if he that distraineth prayeth Deliverance, and the Possessor will not deliver thereto, this is a Rescous; therefore if Rescous have been made, you shall present it.

32. Also you shall enquire, whether any Person hath broken the Lord's Pound; that is, to have taken away a Distress put in, and present it. You shall understand, that if the Lord distrain for any Rent or Service in Arrear, he may impound the same Distress in a Common Pound if he will, or in his own Ground, or in his Neighbours; if he will by the Licence of his Neighbours, and all those Places in which the Lord doth impound any Cattle, are called, The Lord's Pound; but not so when another doth impound any Distress in his own Pound, or in his Neighbours; it behoveth him to give Notice to the other Party; for that if the Distress be Quick he may give him Meat, and then, if the Beast die for want of Sustenance, he that was distrained shall be at the Loss; and then he that distrained before, may distrain again for the same Rent or Duty.

33. Also

33. Also you shall enquire, whether any Tenant for Term of Life or Years, or any Copyholder of this Lordship, hath committed any Wafe, or suffered any Wafe to be committed upon their Land or Tenements.

Wafe is, When any Tenant for Term of Life or Years or any Copyholder, pulleth down any House, or cutteth down any Timber-Trees, or suffereth the House willingly to fall, being on their Copyhold, Tenements; or if any of the Tenants plow up any Meadow ground; or if they suffer any Wall or Pale which were covered to be uncovered, by Reason whereof the same Wall or Pale falls into decay; or if any of them dig Coals, Chalk or Sand, or make any Mines in their Grounds, this is Wafe.

Also if they cut down a Tree to the Value of three Shillings four Pence, this is admitted Wafe; but if a Man cut down Timber to repair the old Houses that stand upon Parcel of the same Ground, and therewith doth repair them, then it is no Wafe: But if he with Timber build a new House, then the cutting down of such Timber is Wafe; or if he cut down any Timber to sell to repair such Houses which are fallen to Decay, such is Wafe. But if Wafe be done with a Tempest, no Tenant shall be punished for such Wafe.

34. You shall also enquire if any Tenant, within the Precincts of this Manor, hath suffered any Farm or House to fall to Decay, which at any Time since the first Year of the Reign of Hen. 7. hath been let with twenty Acres of Land, and present it; for if they suffer any Houses to fall to Decay, the Lord may take and distrain for half of the Issues and Profits of the same, and keep to his own Use, untill such Time as the Houses shall be sufficiently builded and repaired, viz. maintained again for Husbandry.

35. If any Tenants of this Manor do surcharge the Common, by putting in more Cattle than by the Rate of his Tenure he ought; or if any having merely Common Appendant, and not Common Appurtenant, doth put to the Common Cattle not commonable, as Hogs, Geese and Goats; or if any doth break the Lord's Soil, unless it be for Gravel for Repair of the Highways, making up the Breach again; or that doth use the Common in any other Sort, but only with his Cattle for Bit of Mouth; or that doth erect any House or Cottage, commit any Trespass, or encroach any Parcel of the Wafe, without the Lord's Licence; all these are enquirable and presentable.

Whether any Tenant hath let any Farm fall to Decay, viz. not maintained for Husbandry as before.

Abuse of Common.

And

And for the better understanding of these Kinds of Common, you shall know that they are of four Sorts, viz.

1. Common Appendant.
2. Common Appurtenant.
3. Common in Gross.
4. Common *per Cause de Vicinage*.

Common
Appen-
dant, quid.

1. Common Appendant is, Where a Man hath Common of Pasture Time out of Mind of Man, and by Prescription and of Common Right belonging to his own Plough-land, for such Cattle as do gain and manure the Land, and not for Hogs, Geese and Goats.

Common
Appur-
tenant, quid.

2. Common Appurtenant is, Where a Man hath Common of Pasture Time out of Mind of Man, and by Prescription, but not of Common Right, belonging to an ancient House or Messuage : This Commoner may use his Common of Pasture with all Manner of Cattle ; yet so as he that hath Common Appurtenant, may have sufficient Common of Pasture for his Tenements.

Common
in Gross di-
vided.

3. Common in Gross is of two Sorts ; that is, Common in Gross with Number, and Common in Gross without Number.

Common
in Gross
with Num-
ber.

1. Common in Gross with Number, is where a Man hath Common of Pasture ; for example, for ten, twenty, or any Number certain of Oxen, Horses, Sheep or Kite.

Common
in Gross
sans Num-
ber.

2. Common in Gross without Number, is, Where one hath Common of Pasture of all Manner of Cattle ; and yet this Commoner must use his Common of Pasture so as he that hath Common Appendant, may have sufficient Common of Pasture.

Common
per Cause de
Vicinage.

4. Common *per Cause de Vicinage*, is. Where two Townships or Lordships adjoin together, and there is no Division of their Wastes asunder ; if they of the one Manor put forth their Cattle out of their Houses or Lands, and that of their own Accord, and they go into the other, 'tis lawful for them so to do ; but if the Owner either drive them thither, or staff-heard them, there he is a Trespasser.

If any have
over-
charged the
Common,

36. Also you shall enquire if any Inhabitants or Commoners have over-charged the Commons or Highways, or Highways or put Cattle in them before the Days agreed upon.

your

Your Common Fields, by putting in more Cattle than they ought to do; and whether any of them have put their Cattle in any the Commons aforesaid, before the Days agreed upon, and present it; for the Lord (it seems) may distrain the Surplusage Damage-seasant, or else you may make among your selves Orders and Laws for your own Profit, that none shall do upon certain Penalties, &c. and by such Laws the Inhabitants and Commoners shall be bound, &c.

37. You shall also enquire if any Persons have made any Pits in the Highways; and whether any Person do commonly break Hedges, and suffer any Hogs to go unyoked or unringed, to the Annoyance of their Neighbours.

If any Persons have made Pits in the Highways, &c.

38. You shall also enquire whether any Persons have drained or stopped any Ways, Waters, Ditches, Paths, or turned any of them into a wrong Course, and present it.

Stopping of Ways, Waters, &c.

39. Also if any have incroached any Land of the Lord's, viz. Land, Meadow, Pasture, Wood, Heath, Moor, or any other vacant Land, without Licence of the Lord, by setting of his Hedge, Pale or otherwise, and present the same, &c.

Whether any have encroached upon the Land, &c.

Note, That all vacant and waste Land within the Manor, belongeth to the Lord of the Manor.

40. You shall also enquire, whether any Person have plowed up, or removed away any Mere Marks, Baulks or Limits, between one Piece of Land and other, and present it.

Whether any have removed any Marks.

41. You shall enquire also if any Person have taken any Pheasants or Partridges with Net, Snare, or other Engine, upon the Freehold of the Lord of this Manor, and present it.

Whether any have taken any Pheasants, Swans, or Swans.

42. Also you shall enquire if any have taken away any Swans, Cignets, or Eggs of the Lord's Swans out of their Nests, and present it.

Eggs, &c.

The other Sort of Offences I mentioned above by the Officers of this Court consist in the Breach of their Duty, the Substance of which is contained in the Oath they take when chosen into Office, which many of you Gentlemen have formerly all of you often heard, and therefore need not by me on this Occasion be further insisted on.

To conclude; besides these Things by me mentioned, whatever ye know fit to be presented, and may have been by me for Brevity-sake omitted, ye shall present; and also whether any of the Pains imposed last Court-Day, or forfeited, or Orders broke

broke; and for your Information therein I give you the Presentments of the former Court, so go together, consider your Charge, and when you return in the Afternoon present the Names of those Persons you choose into Office for the Year ensuing.

Then command the Bailiff to make Proclamation, Oyes, and adjourn the Court till after Dinner, in this Manner:

**Adjourn-
ment.**

All manner of Persons that have any more to do at this Court, may for this Time depart, and keep their Hour here at two of the Clock in the afternoon.

After you return from Dinner, if any Surrenders or Admittances be to be made, or Actions to be tried, let them be done; otherwise call the Jury for their Presentments, if they be ready; and swear two Affeerers to affeer them as before at the Leet. Then Discharge the Court, the Bailiff making an Oyer and a Cringe, to find who persons are that have
the Dif- charge of the Court.
all manner of Persons that have any more to do at this Court holden here this Day, let them come forth, and they shall be heard, otherwise they, and every one else, may for this Time depart, and keep their Day here upon a new warning. And so God save the King, and the Lord of this Manor.

... who had never seen such a thing before. "I am sorry," he said, "but I have no money to give you. You must understand that I can't afford to pay you back."

The author goes to Otago to follow the geological work of the Otago
District Council during his stay at the Otago Polytechnic. The
author's wife, a member of the Otago Geographical Society, takes
advantage of the opportunity to go to the Otago Peninsula to explore
the area around Dunedin.

The Manner, Form, and Method
of keeping a COURT of SUR-
VEY, for surveying, setting forth,
butting, describing and bounding
of any Manor or Town; with the
several Tenures belonging to the
same. With the Form of making
a Terrar or Field-book, and the
Articles to be given in Charge to
the Jury in a Court of Survey.

Articles to be enquired of and given in Charge
in a Court of Survey, holden for the Manor
of A. in the Parish of H. in the County
of N. the 8th Day of May, 1656.

Imprimis, Who have, or are suspected to have, or keep
back any of the Lord's Evidences, Court-Rolls, Rent-
als, Books of Survey, Terrars or Writings whatsoever
concerning the said Manor, and who have been Stew-
ards of the said Manor within the Time of your Re-
menbrance.

Note. If there be a Survey holden for two Manors, or
more, at one Time, then say instead of *Manor*, *Ma-
nors*; and the said *Manors*, or either of them.

2. Item, That you inform what Limits and Bounds belong to the said Manors; and what Lords are bounding or bordering thereupon, or whether they do challenge, intrude or incroach upon the Lands of the Lords of the said Manors.

3. Item, That you set forth the Freehold Lands and Tenements, within the said Manors, from the Copyhold, Customary and Demesne Lands of the said Manors; and either of them, or any other Maner; and who are Freehold Tenants or Occupiers thereof, and what are their Names, and what Freehold Rent do they severally pay to the Lord of the said Manors for the same.

4. Item, What Alienations, Transmutations or Alterations have been made of any Freehold Lands within or belonging to the said Manors, or any of them; and what is due to the Lord upon such Alienation, Transmutation or Alteration.

5. Item, What Houses or Tenements of Freehold are now standing, or have been decayed within the said Manors; by whom and when were they so decayed; What Lands do or heretofore did belong to every such Houle or Tenement, and what Lands have been sold from the said Houses or Tenements, and to whom.

6. Item, What Tenements or Cottages are lately built within the said Manors, that are holden at Will, or Sufferance, or by Copy of Court-Roll of the said Manors, or either of them, or any pther Manors, and who be the Owners or Occupiers thereof, and what Rents and Services do they yield and pay for the same, and what Lands do belong to every such Tenement and Cottage, and how long since have any such Tenements or Cottages been built; and what Commonage do they challenge for the same, and by what Right, and what is the Name of such Common or Commons they challenge Commonage in.

7. Item, How many Copyhold or Customary Tenants are within or belonging to the said Manors, and either of them; and what be their several Names, and what Messuages, Lands, Tenements or Hereditaments, hath every such Copyholder or Customary Tenant, what are their several Quantities and yearly Values, where do they lie, and how are they abuttalled, and by what Rents and Services doth every such Copyholder hold the same.

8. Item,

8. Item, Whether any of the Copyholders within the said Manors have exchanged, bargained or sold any of their Copyhold Lands or Tenements to any Freeholder; and what are such Lands and Tenements so bargained, exchanged and sold yearly worth, and where do they lie.

9. Item, Whether any Copyhold, or Customary Tenant of the said Manors, or either of them, hath let or set for any Time or Term of Years, his Copyhold, or Customary Lands or Tenements, or any Part thereof, without the Lord's Licence; and whether any enjoy any Copyhold or Customary Land, not having a Copy or Grant thereof immediately from the Lord of the said Manors, and what be their Names, and the Yearly Valuer thereof.

10. Item, What Lands, Tenements, Rents, Services or Hereditaments, within, or belonging to the said Manors, are withheld, concealed, or substracted from the Lord of the said Manors, by whom, and when, & what are the several names of the said persons, and by what Right they do hold or claim the same.

11. Item, What Heath-grounds, Sheep-courses or Sheep-walks, are within or belonging to the said Manors, how far they are situated, set forth or bounded; and how many Acres do every such Heath, Sheep-course or Sheep-walk contain, by Measure or Estimation; and how many Sheep will be the same yearly maintain and keep, and what other Privileges or Customary Feed do belong to the said Sheep-courses or Sheep-walks; and where do the same lie, and at what Time or Times in the Year is the said Privilege and Feed to be taken, and what is the yearly Value of the said Sheep-walks or Sheep-courses.

12. Item, Whether any can or do justly claim or hold any Land that lies within the said Heath-grounds, Sheep-courses, or Sheep-walks, and by what Right they do hold or claim the same and how much Land have every such Land-holder; and whether have they not other Lands of the Lord of the said Manors in lieu or exchange thereof; and where do the said exchanged Lands severally lie; and how are they abutted and bounded; and what be the several Names of the Occupiers of such Lands, and their several Quantities.

13. Item, What Commons, commonable Grounds, waste land and vacant Grounds, are within and belonging to the same Manors, and what be their several Names, how far they are situated, gridded, set forth or bounded; and how many Acres do every such Common, commonable Grounds, waste and vacant Grounds contain by Estimation; and who can and do justly claim or hold the same.

justly claim or pretend to have any Common of Feed in the said commonable Grounds, waste and vacant Grounds, and what be their several Names.

14. Item, What Inclosures and Incroachments have been made at any Time heretofore, and now being in, upon, or out of the said Commons, commonable Grounds, waste and vacant Grounds, by whom, where, and when they were made, and what Quantity; and by what Warrant or Right they did, or do hold the same.

15. Item, What Plantings or Trees is now, and have been heretofore set or growing upon any of the Commons belonging to the said Manors, or either of them; by whom they have been so set or planted, and what be their Names that challenge the same as belonging to their Houses or Tenements, and what be the Names of such Houses or Tenements, and how far off are the said Plantings, or Trees, planted or growing from the said Houses or Tenements, and what Number of Plantings or Trees do they severally challenge to belong to their said Houses or Tenements, and by what Right; and who have lopped, felled, sold or converted to their own use any such Plantings or Trees; and for how much do they, or any of them, hold the same.

16. Item, What Demesne Lands are belonging to the said Manors, and either of them, and where do they severally lie, and how are they abutted, and what be their Quantities and Qualities, and their yearly Value; and what be the Names of them that have them in Farm, Exchange or Occupation; and for what Rent and Term, and for what Cause do they severally hold the same.

17. Item, What Liberties, Freedoms, Franchises, and other Preheminencies and Royalties do belong or appertain to the said Manors; what are the same, and what Profit may be yearly, or otherwise, made or raised by the Lord thereby.

18. Lastly, To enquire and certifie who shall neglect or refuse to bring in and shew forth their Deeds or their Evidences of all their Freehold Lands and Tenements, within the said Manor, together with all their Copies or Court-Rolls of all such Lands as they severally hold by Copy of Court-Roll of the Manors aforesaid, for the better setting forth and distinguishing of the said Lands accordingly, whereby the Survey of such Manors may be made more perfect.

The Manner of making the Terrar or Field-Book,
may be thus.

A General Survey and Field-book taken at H. in the County of S. holden for the Manors of G and H. by R. T. steward and Surveyor of the same, the tenth Day of M. 1656. where in all the Messuages, Lands, and Tenements in the said Manors are set forth, butted and bounded. The Tenure how all such Lands are holden, and who be the right Owners therof.

Then beginning at what Part of the Town you please, and so go through, setting down every Parcel of Land, Messuage or Tenement distinctly, abutting and bounding it; and at last, set down the Tenure and Title of the Owner or Inheritor, according to his Evidence for the same; as thus; if you begin at the Mansion-house, then begin your Survey, book;

A. B. Esq; Lord of the Manor of H. &c. holdeth one Messuage or Manor-house, being the Scite of the Manor aforesaid, in his Demesne as of Fee, together with Barns, Stables, Dove-house, Orchards, Gardens, &c. abutting and abounding the same exactly.

Then proceed to the next Land as you go, whether East or West.

A. S. holdeth next, and more East, twenty Acres of arable Land, abutting, &c. as it lies, &c. by Copy of Court-Roll: Ut pater per Cop. suam de Rotulis Curiae.

If it be Freehold of Inheritance, then say;

A. S. holdeth of the same Manor, one Free Tenement, &c. abutting it exactly, and putting down his Title and Tenure, according to his Evidence.

If the Lords of Manors, and Tenants in their several Parishes and Townships would but join together, with a little Charge, they might have Books of Survey made of their several Manors, wherein each Man's Property might be recorded and known; and this being done but once in an Age, or by every succeeding Lord, his Tenants and himself might live at Amity and Tranquillity; and many chargeable and vexatious Law-Suits, to the undoing of Thousands, avoided.

The Fees of the Court-Baron.

AS for the Fees of this Court they must differ, and are by Law what they have been by Custom Time out of Mind. For some take the same Fees are taken in the County-Court. And other Courts take the Fees which follow.

The Steward's Fees.

F OR entring any Elsain,	00 00 02
Entring every Action,	00 00 02
Every Order entred,	00 00 02
Entring a Declaration; if it be large, then more,	00 00 04
Every Process,	00 00 04
Entring every Plea or Answer,	00 00 04
Every Continuance,	00 00 02
Every Wager at Law, and Entry,	00 60 02
Warrants for Witnesses, and summoning Juries,	00 00 04
Every Nonuit and Retraxit,	00 00 04
Entring every Judgment,	00 00 04
Satisfaction acknowledged,	00 00 02
For removing and certifying a Cause,	00 06 08

The Bailiff's Fees.

U pon every Admittance,	00 00 04
For every Summons,	00 00 04
For executing every Process,	00 00 04
For summoning the Jury,	60 01 00
For summoning of Witnesses upon a Warrant,	00 00 04
If there be Attornies, then their Fees are.	

F OR every Cause if it be heard,	00 00 00
For drawing the Declaration,	00 00 00
For every Court the Cause dependeth after,	00 00 00
he is retained,	00 00 00
If there be Attornies, then their Fees are.	

*The
i.*

The Oath of the Bailiff of a Manor.

You shall swear that you shall well and truly serve our Sovereign Lord the King, and the Lord of this Manor, for the Year to come, in the Office of Bailiff of the same Manor, and you shall duly and truly gather all such Rents, Revenues, or other yearly Profits as shall be extracted out unto you, and thereof you shall make and yield up a true Account at the End of the said Year, and in every Thing you shall well and honestly behave yourself in the said Office during the Time aforesaid.

So help you God.

The Bailiff must be sworn before the Court ends.

Cout-Rolle

B
A

E e 4 PRE-

PRECEDENTS
OF
COPIES
OF
Court - Rolls.

II.

Curia Baronis J. C. Militis Dom. Manerii pred.
ibidem tenet. die Luna 14. die Septembrie, anno
Regni Domini Caroli Secundi, Dei gratia Anglia,
Scotie, Francie & Hibernie Regis, fidei defensoris,
etc. tertiedecimo, coram T. P. gen. Senes-

quello ibidem.

A. B. eſſou, de communī eſſou, per C. L. E. H. eſſou, de ſola Cur.,
per G. M. &c.

Abel Byram,
Bertrand Capel,
Chrifippus Dukeſon,
Dimmock Ellis,
Everardus Pinch,
Ferrandus Gay,
Gabriel Hedder,
Helias Johnson,
Jacob Killingworth,
Kewelius Loder,
Lancelotus Minys,
Milo Myſell,

Juratrices.

Defalt.

Defalt. liber. Teneñ.

Juratores præd. super sacramentum suum praesentare quod
vi d. vi d.
A. B. C. D. &c. sunt liberi Tenentes hujus Manerii, & debent
sciam Curia, & ad hunc diem fecerunt defalt. Ideo quilibet eorum
in misericordia prout patet super eorum capit. respectice.

Defalt. Teneñ. per Copiam Rotulorum Cur.

Item Juratores præd. super sacramentum suum praesentare quod
vi d. vi d.
E. F. G. H. &c. sunt Tenentes per Copiam Rotulorum Cur' & debent
sciam Cur. & ad hunc diem fecerunt defalt. Ideo quilibet eorum in
misericordia prout patet super eorum capit. respectice.

Obitus liberi Tenentis.

Præsulat. est etiam per Homagium præd. quod G. E. qui tenuit
libere de Domino hujus Manerii unum Cotagium & quatuor acras &
tres rodas terra cum pertin. in A. infra Materium præd. per fidelita-
tem, sciam Cur. & reddit. per annum 4. d. extra ultim. Cur obiit
de talis statu suo inde seipst. Et quod quidem F. E. est ejus filius &
proximum heres, etatis duodecim annorum. Et ad hanc Curiam venit
messe. F. E. & servit Dom: pro Relvio 3. d. & fecit fidelitatem, &c.

Alienatio liberi Tenentis.

Item Juratores præd. dicunt super sacramentum suum præd. quod
C. L. qui tenuit libere de Domino hujus Manerii unum Messuagium, &c.
cum pertinentiis in A. infra Maner. præd. per scriptum suum inde-
rat. geren. dat. primo die Maii, anno regni dicti Dom. Regis nunc
Angliae, &c. duodecimo concessit omnia & sing. præmis. præd. cum
pertin. cuidam H. D. hered. & sign. suis imperpet. habend. & re-
mend. omnia & singula præmissa præd. cum pertin. præfer. H. D.
hered. & sign. suis imperpetuum, tenend. de Capitalibus Domino vel
Dominis frodi illius per consuetudinem, reddit. & servitia inde prius
debit. & de jure consuet. Quæ quidem præmissa præd. H. D. tenet de
Domino hujus Manerii per fidelitatem, sciam Cur. & reddit. per
annum 2. l. Et ad hanc Curiam fecit Dominus fidelitatem, &c.

Legatio tenementorum liberi Tenentis.

Distring.

Comperitum est etiam per Homagium ibidem quod H. D. qui tenuit
libere de Dom. bujus Manerii duo mesuagia sive tenementa cum pertin.
in A. infra Manerium pred. per fidelitatem fidam Cur. Et reddit.
per annum & d. obicit inde seipso. Et per ult. voluntatem suum in scrip.
tia geren dat. primo die Februario, anno regni dicti Domini Regis
nunc tertiodiceno, dedit de legavit mesuagia sive tenementa pred.
cum pertin. cuidam H. D. filio suo, babend & tenet mesuagia sive
tenementa pred. cum pertin. prefat. H. D. filio bared. Et assign. suis
imperpetuum. Iaco praecepit ut hanc distingatur pred. H. D. ad
solvend. Domino Relevium, & etiam distingatur ad faciend. fidel.
itate.

Sursumredditio tenementorum Customar. in feo:
do per manus duorum Customar. tenen. extra
Cur.

Comperitum est etiam per Homagium ibid. quod R. B. unus Customar.
tenet bujas Manerii, qui tenuit de Dom. bujus Manerii per
Copiam Batulorum C. i. secundum consuetudinem Manerii pred. unum
mesuag. tres actas ead. duas actas prati. & quatuor actas pastur.
cum pertin. in A. infra Manerium pred. circa ult. Cur. Et exiit. Cur.
sursum reddidit in manus Domini per manus A. B. & C. D. duorum
Customar. Tener. Manerii pred. secundum consuetudinem Manerii illius
tenementorum pred. cum pertin. Ad opus & usum J. B. bared. Et alijs
sugorum imperpetuum. Tener. & Dom. per virgam ad voluntatem Do.
mini. secundum consuetudinem Manerii pred. Qui quidem J. B. Domi.
nus per Seneschallum suum concessit inde per virgam seipnam. Habend.
sibi & heredibus suis ac descend. de Dom. per usum addit. per annum
quinque solidorum, & alia se vicia inde primus debit. Et de jure con.
fuer. Et dat. Dom de fine pro ingressu suo inde habend. 40 s. fecit
fidelitatem. & admittit est inde tenens.

Simile ad terminum vita.

Comperitum est etiam p. r. Hom. ibid. quod W. G. qui tenuit ut supra
unam virgas terra cum pertin. in A. infra Maner. pred. circa ult.
Cur. & extra Cur. Iussum edidit in manus Dom. per manus G. H.
& S. T. gen. duorum Customar. Tener. Manerii pred. secundum con.
suetudinem Manerii illius pred. virgato terra cum pertin. ad opus &
usum pred. W. G. pro term. vita sua naturali; Et post decessum ipsius
suis W. G. tunc ad opus & usum L. D. At. pro term. vita sua nat.
urali; Et post decessum ipsius L. D. tunc ad opus & usum rectorum ha.
red. pred. W. G. imperpetuum; Tener. de Dom. per virgam ad
volun.

voluntatem Dom. secundum consuetudinem Manerii præd. Et dictum est per Homagium præd. quod præd. W. G. citra ult. Cur. obiit. Et modo ad hanc Curiam venit præsat. L. D. Et per se admitti ad præd. virgat. terra cum pertin. Cui quidem L. D. Dom. per Seneschallum suum concessit inde per virginam feisnam; Habend. & tenend. eidem L. D. Et assign. suis pro termino vita sua natura quo potest decessum ipsius L. D. runc ad opus & usum rectorum bret. præsat. W. G. in perpetuum. & rendet de Domino per reddit. per annum virginis solid. & alia servicia inde prius debitis. & de jure consuet. Et præd. L. D. dat Domino de fine pro ingressu suo ad præd. virgin. terra cum pertin. habend. sexaginta solid. Et fecit fidelitatem. Et admisus est inde tenens.

Aliter pro vita alterius.

Compositum est per Homagium ibid. quod A. L. vid. que tenet ut supra ad termin. vita sua sex clausa præt. Et pastura vocat. &c. modo in tenura sua occupat. cuiusdam W. L. jacen. & existet. in E. infra parochiam de A. prox. adjungen. quibusdam pasturæ vocat. Pasture grounds ibidem cuiusdam C. D. ex occidentali parte. Et quoddam pratum ibidem vocat. Leafe meadow ex orientali parte corundem; Et unum clausum pasturæ vocat. Sleethdole. contingens per assimat. septem acres. (plus vel minus) jacen. & existent. in E. præd. infra præd. parochiam de A. prope adjungen. euidam pasturæ ibidem vocat. Pasture grounds cuiusdam E. M. ex parte orientali episdem; Et duas pasturæ (anglice Pasture grounds) vocat. Kingstones. Et Newellies. cunianter per assimationem octodeci acres. idem. Et existent. in E. præd. prope adjungen. euidam pasturæ ibid. cuiusdam W. J. gen. ex parte boreali. in quibusdam terris Et pasturæ modo in tenura que jussidum Maria Hally videlicet ex parte australi corund. ultra ult. Cur. Et extra Cur. sursum videlicet. in manu Dom. per manus J. F. Et G. K. due cum Giffonar. Tenentur Manerii præd. secundum consuetudinem. Non recte illius præd. separata clausa præt. Et pastura cum pertin. ad opus & usum J. L. gener. pro termino vita ipsius A. L. tenet. de Dom. per virginam ad voluntatem Dom. secundum consuetudinem Manerii præd. Et dictum est per Homagium præd. quod ptech. A. L. circa ult. Cur. obiit. Et modo ad hanc Curiam venit præsat. J. L. Et petit se admitti ad præd. separata clausa præt. Et pastura cum pertin. Cui Dom. per Seneschallum suum concessit inde per virginam feisnam. habend. & tenend. eidem J. L. Et assign. suis pro termino vita ipsius J. L. ex tenend. de Dom. per reddit. per annum 40 s. & alia servicia inde prius debitis. & de jure consuet. Et præd. J. L. dat. Domino de fine pro ingressu suo inde habend. centum solid. Et fecit fidelitatem. Et admisus est inde tenens. non non monopolio regni regni.

Et dicitur imp. A. II. lib. 1. litius magistrum reg. multis de captiuitate etiam etiam ab eo in multis multitudine. non magnitudinem tam magistrum. Et dicitur non nullus etiam. A. id regnum calvum non. nullus.

Aliter sur Settlement in Marriage.

Compertum est per Homagium ibid. quod J. B. qui tenuit ut supra unum mesuagium sive tenementum vocat. Horners, quinquaginta aeras terra, quadraginta aeras prati, triginta & six aeras posura, & eam cum 15 virginis aeras marisci cum pertin. in A. infra Maner. prad. circa ult. Cur. & extra Cur. sursum reddidit in manus Domini per manus H. A. & J. V. duorum Customar. Tenen. Manerii prad. secundum consuetudinem Manerii illius prad. mesuagium sive tenementum & cetera premissa prad. cum pertin. Ad opus & usum prad. J. B. & hered. & assign. suorum, usque ad solemnizationem cuiusdam intensi Maritagii (permissione divina) cito habitur. & solemnizatur, inter quendam C. B. filium & heredem apparentem prad. J. B. ex una parte, & quandam A. D. de A. prad. Spinster, ex altera parte; Et ab & immediate post solemnizationem ejusdem Maritagii tunc ad opus & usum prad. J. B. pro & durante termino vita sua naturalis; Et ab & immed. post ejus deceasum, tunc ad opus & usum S. uxoris ejus pro & durante termino vita sua naturalis; Et ab & immed. post deceasus (anglice the Deceases) ipsorum prad. J. B. & S. uxoris ejus, & deceasum eorum superviventis, tunc ad opus & usum prad. C. B. pro & durante termino vita sua naturalis; Et ab & immediate post deceasus ipsorum prad. J. B. & S. uxoris ejus & C. B. & deceasum eorum superviventis, tunc ad opus & usum prad. A. uxor intensa prad. C. B. pro & durante termino vita sua naturalis; Et ab & immediate post deceasus ipsorum prad. J. B. & S. uxoris ejus, C. B. & A. uxor sua intensa, & deceasum eorum superviventis, tunc ad opus & usum heredum de corpore prad. C. B. super corpus prad. A. legitimate procreat. vel fore procreand. Et pro defectu talis Exiit. tunc ad opus & usum hered. & assign. prad. C. B. imperp. Tenend. de Dom. per virginem ad voluntatem Dom. secundum consuetudinem Manerii prad. Qui quidem J. B. & S. uxor ejus circa ult. Cur. obierunt. & modo ad hanc Curiam venit prad. C. B. in propria persona sua, & petit se admitti ad prad. mesuagium sive tenementum & cetera premissa prad. cum pertin. Cui Dominus per Seneschallum suum concedit inde per virg. scilicet, habend. & tenend. eidem C. B. & assign. suis pro termino vita sua naturalis. Reman. inde prout superioris limitatur, & tenend. de Domino per reddit. per annum 50s. & alia servicia inde prius debit. & de jure vobis. Et deo Domino de fine pro ingressu suo inde habend. seu libras, fecit fidelitatem, & admissus est inde tenens.

Aliter super conditionem non performat.

Compertum est etiam per Homagium ibid. quod H. R. qui tenuit ut supra unum mesuagium sive tenementum, decem & octo aeras terra jecen. in communibus campis de A. infra Manerium prad. & virginis

a cras prati jacea, in quodam grato in A. præd vocat. Hughes Mead,
alias scilicet primo die Maii, anno Domini 1659. exira Curiam sur-
sumreddidit in manus Dom. per manus H. I. & N. B. duorum Custo-
mar. Tenen. Manerii præ. secundum consuetudinem Manerii illius
præd. messuagium sive tenementum & cetera præmissa præd. cum pertin.
Ad opus & usum C. D. hered. & assign. suorum imperpetuum
sub his conditione, quod si præd. H. R. hered. vel assign. sui solvend
vit solvi causarent prefat. C. D. Executor. Administri. vel assign. suis
cent. libr. legalis moneta Anglie ad vel super secundum diem Maii
qui foret in an. Dom. millesimo sexcentesimo sexagesimo, tunc sursum-
reddidit. præd. foret vocata & nullius effectus, aliter staret in plena
potestate & virtute. Et modo ad hanc Curiam venit præd. C. D. in
propria persona sua, & petit se admitti ad præd. messuagium & cetera
præmissa præd. cum pertin. Cui Dom. per Seneschallum suum concessa
inde per virginem seipnam, habend. & tenend. eidem C. D. hered. &
assign. suis imperpetuum, tenend. de Domino per virginem ad voluntatem
Domini secundum consuetudinem Manerii præd. ac per reddit. per an-
num decem solid. & alia servicia inde prius debit. & de jure consuet.
Et dat Domino de fine pro ingressu suo inde habend. centum solidos fa-
cit fidilitatem, & admisus est inde tenens.

Concessio tenementorum Customar' per Domi- num Manerii ad terminum vitæ, Remanere in Tallio, Remanere in feodo post Abatamentum.

Compertum est etiam per Homagium ibidem quod quidam O. B.
Miles defunct. tenuit de Domino bujus Manerii die quo obiit sibi &
hered. suis ad voluntatem Domini secundum consuetudinem Manerii
præd. unum messuagium sive tenementum, viginti aeras terræ, viginti
aeras prati, quadraginta aeras pastura, triginta aeras bosci, quadra-
ginta aeras jampnorum & bruera, quinquaginta aeras mora, & centum
aeras marisci cum pertin. in A. præd. infra Manerium præd. Et quod
præd. O. obiit de tali statu suo inde seipsum. per sex annos jam ultim.
elapsos & amplius. Et quod quidam H. R. in jure A. uxorius suis
quondam uxor L. B. Armigeri filii præd. O. B. immediate possit
decessum præd. O. B. in præd. messuagium sive tenementum & cetera
præmissa præd. cum pertin. abaravit, intravit & intruit super possessio-
nem Dom. Manerii præd. in exbareditat. dicti Dom. Manerii præd.
successorum suorum, & contra consuetudinem Manerii sui præd. a tem-
pore cuius contrarii memoria bonum non existit in eodem Manerio
uixit. & approbat. & exitus & profectus inde a tempore mortis præd.
O. B. ad suum proprium usum hucusque habuit & perceperit, non capi-
end. præd. messuagium sive tenementum & cetera præmissa præd.
cum pertin. extra manus Domini Manerii præd. nec fecit inde Dom.
finem pro eisdem secundum consuetudinem Manerii sui præd. Et sic
præd. H. R. tenuit & occupavit præd. messuagium sive tenementum &
cetera præmissa præd. cum pertin. per præd. sex annos ult. elapsos &
unpli,

amplius, contra consuetudinem Manerii predicti. Ideo prescriptione et
ballyvo Manerii pred. seorsim in manus Domini pred. mesuagium sive
tenementum & cetera prmissa pred. cum pertin. quousque, &c. Et
Dominus modo habens inde seifinam ad biam petisionem pred.
H. R. ex gratia sua speciali ad hanc Curiam concessit extra manus suas
pred. mesuagium sive tenementum & cetera prmissa predicta cum
pertin. presat. H. R. & A. uxori ejus ad terminum vita ipsius A.
Et liberata est eis seifina per virgam, habend. & tenend. pred. mesuagium sive
tenementum & cetera prmissa pred. cum pertin. presat.
H. R. & A. ad terminum vita ipsius A. ad voluntatem Domini se-
cundum consuetudinem Manerii pred. Et post deceasum ipsius A. rema-
nere inde quibusdam D. T. & K. uxori ejus, consang. & pro-
bered. pred. O. B. videlicet filie pred. L. B. filii pred. O. B. &
bered. de corpore pred. D. T. legitime procreat. Et pro defectu talis
exitus remanere inde presat. K. uxori predicti D. T. & bered. de
corpore pred. K. legitime procreat. Et pro defectu talis exitus rema-
nere inde presat. H. R. & bered. de corpore predicti H. R. legitime
procreat. Et pro defectu talis exitus remanere inde presat. A. uxori
pred. B. R. & bered. de corpore eiusdem A. legitime procreat. Et
pro defectu talis Exitus remanere inde exidum V. S. & bered. suis
imperpetuum, tenend. de Domino per virgam ad voluntatem Domini
secundum consuetudinem Manerii pred. per reddit. & servicia inde
prius debit. & de jure consuet. Et tamen pred. H. R. & A. uxori ejus
quam pred. D. T. & K. uxori jus dant Domino de fine pro talis in-
gressu suo inde habend. de & in prmissis octoginta solidis, fecerunt
Dom. fidelitatem, & admissi sunt inde tenentes modo & forma pre-
dictis, &c.

Seslumaredditio regemotorum Customar. pro vita, remanere in loco, capt. per Seneschal- lum extra Cur.

Ad hanc Curiam testatum est per T. P. Seneschall. quod primo die
Januarii, anno regni dicti Dom. Regis nunc duodecimo A. L. gener.
jacens in extremis sursumired. in manu Dom. per manus dicti Senes-
challi extra Cur. in prmissa S. D. S. R. & D. J. secundum consuetu-
dinem Manerii pred. unum antiquum cotagium sive tenementum in quo
J. C. modo inhabebat, triginta acres terra, viginti & sex acres pratis,
& quadragesita acres pastura cum pertin. in A. infra Manerium pred.
vocat. Alexander's Farm, ad opus & usum J. uxoris ejusdem A. L.
pro termino vita sue; Et post deceasum ejusdem J. remanere inde C. L.
& H. L. filii natu minoribus pred. A. L. & bered. suis. Proviso
tamen semper & sub hac conditione, quod si contingat aliquem pred.
C. & H. obire sine hered. de corpore suo exen. quod sunt ipse qui
superixerit habebit & gaudebit pred. cotagium sive tenementum &
cetera prmissa pred. cum pertin. sibi & heredibus suis imperpetuum.
Et saper hoc venit hic in Cur. pred. J. in propria persona sua. &
peiii

perit se admitti ad cottagium sive tenementum & cetera præmissa
præd. cum pertin. Cum Dominus per Seneschallum suum concesserit inde per
virgam scismam, habend. sibi in forma præd. ad voluntatem Dom. fe-
cundum confutudinem Mancrui præd. Et dat Dom de fine p[ro]p[ter]e ingressu
suo inde habend. quadraginta solid. fecit fidelitat. & admissis &c inde
tenens.

**Simile cap*t*. per Seneschallum extra Cur. ad usum
viri & uxoris & hered. de corpore viri, reman-
nere hered. uxoris in tallio, remanere viro pre-
sentis tenentis pro vita in tallio, remanere pre-
senti tenenti pro vita in tallio, remanere in
scodo.**

Ad hanc Curiam testatum est etiam per præd. T. P. Seneschallum
videlicet, quod decimo die Februario, anno Regni diei Domini Regis
munc terciodicimo T. J. denuo coram prefat. Senesch. in propria per-
sona sua, & scismam addidit in manus Dominis per manus dicti Senes-
challi extra Cur. in præf[er]entia L. D. C. K. & J. T. secundum confu-
tudinem Mancrui præd. reversionem unius messagli sive tenementi, se-
decim acraru[m] terre, duodecim acraru[m] prati, & tredecim acraru[m]
pasture cum pertin. vocat. Dillingham's Farm, ac reversionem duo-
rum cottagiiorum, octodecim acraru[m] prati, & quatuordecim acraru[m]
pastura cum pertin. in H infra parochiam de A. Ad opus. & usum
D. T. & K. uxoris ejus & hered. de corpore præd. T. legitime pro-
creat. cum post mortem cuiusdam A. modo uxoris H. J. acciderint: Et
pro defectu his exitus de corpore præd. D. T. legitime procreat. re-
manere inde prefat. K. uxori prefat. D. & hered. de corpore ejusdem
A. legitime procreat. ; Et pro defectu talis exitus remanere inde prefat.
H. J. & hered. de corpore suo legitime procreat. Et pro defectu
talis exitus remanere inde prefat. A. uxori præd. H. J. & hered. de
corpore ejusdem A. legitime procreat. Et pro defectu talis exitus rema-
nere inde V. S. & hered. suis imperpetuum. Quibus quidem D. T.
& K. uxori ejus Dominus per Seneschallum suum præd. ad base Curiam
concessit inde per virgam scismam, habend. & tenend. præd. mesua-
gium, & cetera præmissa præd. cum pertin. in Reversione se-
cundum confutudinem Mancrui præd. cum post murrem præd. A. uxori
præd. H. J. acciderint, prefat. D. & K. uxori ejus & hered. de
corpore præd. D. legitime procreat. Et pro defectu talis exitus rema-
nere inde prefat. K. uxori prefat. D. & hered. de corpore ejusdem K.
legitime procreat. Et pro defectu talis exitus remanere inde prefat.
H. J. & hered. de corpore suo legitime procreat. Et pro defectu talis
exitus remanere inde prefat. A. uxori præd. H. J. & hered. de cor-
pore ejusdem A. legitime procreat. Et pro defectu talis exitus rema-
nere inde V. S. & hered. suis imperpetuum ad voluntatem Domini
secundum confutudinem Mancrui præd. per reddit. & servitus inde
prius debet. & de jure consuet. & præd. D. & K. uxori ejus dant Dom.

de fine protali statu suo inde habend. centum solidos. Et adiuncti sunt inde genentes modo & forma pred'. Et pred' Dom' cognoscit se satisfacti de pred. fine inde habend. pro mesuagio, cottagis & ceteris praemissis pred. cum pertinenciis de pred. D. & K. uxore ejus cum pred. mesuagium, cottagia & cetera praemissa pred. cum pertin. post mortem pred. A. uxoris pred. H. J. ad manus suas divenierint. Et posse ad banc Cur' venit pred. T. J. in propria persona sua, & hic in plena Curia sursum redidit in manus Domini eas ius, titulum, clameum & interesse sua in omnibus pred' mesuagio, cottagis & cetera praemissa cum pertinenciis ad usus pred. Et ulterius remisit, relaxavit, & omnino pro se & heredibus suis quietum clamoribus prefat. H. J. & A. uxori ejus tota ius, titulum, clameum, interesse & demand' suis que ipso pred. T. J. unquam habuit in pred' mesuagio cottagis & ceteris praemissis pred. cum pertinenciis, Habend. & tenend. omnia & sing' pred' mesuagium, cottagia & cetera praemissa pred. cum pertinenciis prefat. H. J. & A. uxori ejus pro termino vite pred. A. & post decesum ejusdem A. remanere omnia pred. servar' & tenementorum cum pertinenciis prefat. D. T. & K. uxori ejus & hered. de corpore pred' D. legitime procreat, & pro defectu talis Exitus remanere inde prefata K. ux. pred. D. & hered. de corpore ejusdem K. legitime procreat; Et pro defectu talis Exitus remanere inde prefata. H. J. & hered. de corpore pred' H. J. legitime procreat; Et pro defectu talis Exitus remanere inde prefata. A. uxori pred. H. J. & hered. de corpore ejusdem A. legitime procreat; Et pro defectu talis Exitus remanere inde prefata. V. S. & hered. suis imperpetuum ad voluntatem Domini secundum Consuetudinem Manerii predicti, &c.

Präsentamentum de morte Cohæredis ubi tenementa customar' descend. unico fratri & hæredi.

Comperiam est etiam per Homagium ibidem, quod T. S. qui tenuit filii & hered. suis de Dom. bajus Manerii secundum Consuetudinem Manerii pred. unus mesuagium sive tenementum, duo cottagia, tria Testa, unum Columbare, unum Gardinum, duo Pomaria, quinque gressuas terræ, viginti acres prati, octoginta & septem acres pasturæ, centum acres bosci, ducentas acres Fampnor' & brueræ, & sevagiat. acris Morisci cum pertin. in A. ante hanc Cur' obiit inde seipius. Et quod H. S. est unicus frater & heres proximus pred' T. S. & plena aetatis, qui presens hic in Cur. petit se admitti tenentem ad omnia terras & tenementa Customaria de quibus ipse pred' T. S. obiit inde seipius, videlicet ad pred' mesuagium, cottagia, terras, tenementa, & cetera praemissa pred. cum pertinen' in A. pred. infra Manerium pred. Cui quidem H. S. Dominus per Seneschallum suum pred. concessit inde per virginem seipinam, Habend' & tenend. filii & hered' suis, Testam' de Domino per virgam ad voluntatem

voluntatem Domini secundum Consuetudinem Manerii pred. per redditum & servitio inde prius debit' & de jure consuet. Et dat Domino de fine pro ingressu suo inde habend. ducem libras; & fecit Domino fidelitatem, & admissus est inde tenens.

Similis discensus filio & haeredi de terris custo-
mar tent. in Coparcenerio.

Compertum est etiam per homagium ibidem, quod quidam H. B. qui tenuit de Dom. hujus Manerii ut Parcenerius secundum Consuetudinem Manerii pred. tria mesuagia, tria Cotagia, sexaginta aeras terra, sepeuaginta prati, & centum & quinquaginta aeras pastura cum pertin' in A. infra Manerium pred' simul cum J. B. fratre suo, sibi & hered' suis, obiit circa ult' Cur' inde seisi'. Et quod quidam L. B. est ejus filius & proximus heres quond' medietas, pred' mesuagiorum, Cotagiorum, terrarum & tenementorum pred' cum pertin', & plene atatis; qui praesens hic in Cur' petit se admitti tenentem ad pred' medietatem pred. terrarum & tenementorum cum pertinenciis. Cui quidam L. B. Dominus per Seneschallum suum pred. concessit inde per virgam seisinam, Ha- bend' & tenend' sibi & hered' suis in Coparcenerio cum prefat' J. B. Tenend. de Domino per virgam ad voluntatem Domini secundum consuetudinem Manerii pred' per reddit. & servitio inde prius debit' & de jure consuet'. Et dat Domino de fine pro ingressu suo inde habend' quadraginta solidos, & fecit Domino fidelitatem, & admissus est inde tenens.

Sursumredditio in Curia per Seneschal-
lum.

Ad hanc Curiam venit A. B. unus Customari' tenent' hujus Manerii in propria persona sua, & sursumreddidit in manus Dom' per manus Seneschalliz sui pred' unum Cottagium cum pertinenciis vocat' Sladens, ac duodecim aeras terra jaceat' in communi Campo de A. pred' vocat' le Marstiffeld, videlicet unam aerae inde super stadio ibidem vocat' Carters Furlong, inter terras Georgii Cambridge ex orientali parte, & terras Willielmi John- son ex occidentali parte ibidem, & abutant' super terram Cap- talem vocat' a Headland ejusdem Johannis Ingersole ibidem ex parte australi; quatuor sectiones inde (per estimati' unam aerae) jaceat' super stadio ibidem vocat' Websters Furlong, inter ter- ras Willielmi Wilson generosi ex parte australi, & terras Jose- phi Tiler ex parte boreali ibidem, & abutant' super c'munem viam ibidem ex parte orientali inde; duas aeras inde jaceat' su- per eodem stadio vocat' Websters Furlong, juxta terras pertinen-

Collegio vocat' Caius College in Cantabrigia ex parte boreali,
 & abutan' super dictam commun' viam ibid' ex parte orientali
 inde ; duas rodas inde jacen' super stadio ibidem vocat' Long
 Furlong, inter terras Manilii Willoughby generosi ex parte ori-
 entali, & terras prahonorabilis Edw. Comitis Clarendon ex parte
 occidentali, & abutan' super Rivolum ibidem vocat' Stareden
 Brook ex parte boreali inde ; tres rodas inde jacen' super
 dicto stadio vocat. Long Furlong, inter terras Johannis For-
 dian Armigeri ex parte orientali, & terras Henrici Godfrey
 Militis ex parte occidentali, & abutan' super dictum Rivo-
 lum ibid' vocat. Stareden Brook ex parte boreali inde ; tres
 alias rodas inde jacen' super dicto stadio vocat' Long Furlong,
 inter terras Roberti Baker generosi ex parte occidentali, & ter-
 ras Willielmi Arter ex parte orientali inde, & abutan' super dictum
 Rivolum ibidem vocat' Stareden Brook ex parte boreali inde ser-
 seliones inde (per estimationem unam acram & dimidium unicus acrae)
 jacen' super stadio ibid' vocat' Church Furlong, inter terras Ro-
 bertii Jason Baronetti ex parte australi, & terras modo
 Dom' hujus Minerii ex parte boreali, & abutan' super Cæmete-
 rium Ecclesie parochialis de A. ex parte orientali inde ; sex ali-
 as seliones inde (continen' per estimationem unam acram &
 dimidium unius acrae) jacen' super eodem stadio vocat' Church Fur-
 long, inter terras Susanne Carter vidue ex parte boreali, & ter-
 ras Hugonis Claver generosi ex parte australi, & abutan' super
 præd' Cæmeterium Ecclesie parochialis de A. præd' ex parte
 orientali inde ; dimidium unius acrae inde existens Caput, vocat'
 the Headland, ejusd' stadii vocat. the Church Furlong ; u-
 num aliud dimidium unius acrae inde jacen' super stadio vocat'
 the Hill Furlong, inter terras prenobilis Georgii Ducis Bucking-
 hamia ex parte orientali, & terras pertin' Magistro, Sociis &
 Scholaribus Collegii Sancti Johanni in Cantabragia ex parte ori-
 entali, & abutan' super quasdam terras ibidem vocat' Stirch-
 leys Heydons ex parte australi inde ; unum aliud dimidium
 unius acrae inde jacens super eodem stadio vocat' the Hill Furlong,
 inter terras Georgii Montague generosi ex parte orientali inde,
 & terras dicti modo Dom' ejusdem Minerii ex parte occidentali,
 & abutan' super dictas terras ibidem vocat' Stirchley's Hey-
 dons ex parte australi inde ; duas rodas inde jacen' super stadio
 ibidem vocat. Dirty Furlong. inter terras Johannis Whitby Ar-
 migeri ex parte meridionali, & terras Ambrosii Gregorii genero-
 si ex parte septentrionali, & abutan' super magnum Boscum vocat'
 Gayers Wood ex parte occidentali inde ; duas alias rodas inde
 jacen' super dicto stadio vocat' Dirty Furlong, inter terras Ja-
 cobi Scot ex parte septentrionali, & terras Dionysii Antrobus ge-
 nerosi ex parte meridionali, & abutan' super dicto stadio vocat.
 Gayers Wood ex parte occidentali inde : Ad opus & usum Jo-
 hannis Rider, hered' & assign' suorum imperpetuum. Cui quidem
 Johanni

Johanni Rider Dom. per Seneschallum suum concessit inde seisinam per virgam, Habend' sibi & hered' suis, Tenend' de Dom' per virg' ad voluntat' Dom' per reddit' & servicia consuet' Manerii præd' per reddit' & servicia inde prius debit' & de jure consuet'. Et dat Dom' de fine pro ingressu suo inde habend' viginti sex solid' & octo denar', facit fidelitatem, & admissus est inde tenens.

Copia Rotuli Curiæ, sive extract' sursumredictionis è rotulis Cur'.

L. **A**d Curiam Baronis J. P. Militis, Domini Menèrī Manerium præd', ibidem tent' die Luna primo die Septembris, de A. C. Anno Domini millesimo sexcentesimo sexagesimo tertio, annoque Regni Domini nostri Carilli Secundi, Dei gratia, Angliae, Scotiae, Francie & Hibernie Regis, fidei Defensoris, Eccl. tertio decimo, cōram Francisco Wyat Armigero, Seneschallo ibidem, Irrotulatur, sic.

Ad hanc Curiam venit L. C. unus Customar' tenen' bujus Manerii in propria persona sua, & sursumredit in manus Domini per manus Seneschalli sui præd' secundum Consuetud' Manerii predicti unum mejuagium sive tenementum & triginta acres prati & pasture cum pertin' in A. præd' infra Manerium præd', Ad opus & usum J. C. hered' & assign' suorum imperpetuum. Cui Dominus per Seneschallum concessit inde per virgam seisinam, Habend' sibi & heredibus suis, Tenend' de Domino per virgam ad voluntatem Domini secundum Consuetudinem Manerii præd' per reddit' & servicia inde prius debit' & de jure consuet'. Et dat Dom' de fine pro ingressu suo inde habend' quinquaginta solid', fecit fidelitat', & admissus est inde Tenens.

*The finding of the Death of a Tenant, and of a
Surrender made to the Use of his Will, with an
Admission of the Tenant.*

Homagium ulterius präsentant quod A. B. senior Cūstumar. tenens hujus Manerii, diem clausit extreum post ultimam Curiam. Et quod ipse idem A. B. ante mortem ejus, scilicet decimo die Maii, Anno, &c. sursumreddidit in manus Domini hujus Manerii per manus C. D. Cūstumar. Tenen. ejusdem Manerii omnia & singula Cūstumar. terr. tenementa & hereditamenta quæ tenuit de isto Maner. ad opus & usum testament. & ultim' voluntat. sive. Et nunc ad hanc Cur' ven. E. F. filius maximus natu ejusdem A. B. Et profert hic in Cur. testamentum & ultimam voluntatem prædict. A. B. gerent datum, &c. coram G. H. deputat' Commisar. J. A. in & per tot. Archidiaconat. W. probat. tenor cuius quidem voluntar. quoad Cūstumar. ter' prædictas. sequitur in hæc verba, scilicet. Item, Do E. filio meo, &c. prout per dict. testamentum & ultimam voluntat. ejusdem A. B. plenus liquet. Et pet. ex gratia Domini admitt. ad omnia & singula, præmiss. prædict. videlicet ad duas pec. Cūstumar. terrarum jacen. in Campo vocat. R. continē. per æfumation' ost. acr. un. pec. ter. &c. jacen. prox. terr. vocatum D. ex parte Austral. & terr. &c. quas quidem duas pec. terr. præfat. A. B. nuper habuit & accepit sibi. & hæred. suis ex sursumreddition. S. T. & M. uxoris ejus ad General. Cur. cum leta hic tent. die Jovis 18. die Augusti Anno, &c. plenius liquet, cui quidem E. sejrina inde sibi deliberatur. Tenend. sibi & hæred. suis sub conditione & modo & forma prout in ultima voluntat. specificatur per Virgam ad voluntat. Domini, per servit. & reddit. 2 s. annuatim & fecit. Cur. (salvo jure, &c.) & dat Domino pro fine, &c. Et facit fidelitatem, &c.

The finding of the Death of a Tenant.

Item dicunt super Sacramentum suum, quod A. B. post ultim. Cur. obiit. se sit. de & in duabus rodis terr. jacen. in quodam Pigbtel vocat. R. tent. de hoc Maner. per fidelitat. & annual. redd. 4 d. annuatim. & quod E. F. est filius ejus & prox. heres ipsius A. B. & plenæ statis, qui nunc inde fecit Domino fidelitatem.

Oribus:

Tem præsentat est per homagium præd. quod A. B. qui tenet sibi & hered. suis de Domino Maner. pried. un. Mesuagium, &c. cum pertin. per annal. redd. vi d. fidel seft. Cur. &c. al. Servit inde prius debit. & de Jure consuet. obiit sic inde sefit. Et quod. A. B. est ejus fil. & heres, & plene ætatis, per copiam Rotulorum Cur'.

Pains found and set upon Tenants for want of Suit of Court.

Tem dicunt super Sacramentum suum, quod J. W. & S. J. sunt tenuentes per Copiam rotulor. Cur. hujus Maner. & debent seft. Cur. & ad hunc diem fecer. defalt. ideo quilibet eorum in misericordia, 6 d.

The Like.

Et quod A. B. & C. D. sunt tenuentes Dom. Maner. per dimission. & debent seftam huic Cur. & nunc ad hunc diem fecer. defalt. ideo uterque eorum sunt in misericordia prout patet super eor. caputib.

The Like.

Et quod E. F. G. R. & J. K. sunt liberi tenuentes istius Maner. & debent seft. Cur. Et nunc ad hunc diem inde fecer. defalt. ideo quilibet eor. sunt in misericordia prout patet super caput, 6 d.

The Presentment of a Surrender made out of the Court into Tenants Hands, with the Admission of the Tenant accordingly.

Et quod L. M. junior extra Cur. post ult. Cur. fursum reddit in Man. Domini istius Maner. per man. N. O. Custum. ten. hujus Maner. in præsencia L. M. & P. R. si-
milter Custumar. tenen. hujus Maner. omnia terr' & tene-
menta Customar. ejus cum pertin. quæ tenuit de Maner.
isto ad opus & us. S. J. senior. hered. & assign. suor. & pet.
ex gra. Dom. admitti tenen. ad omnia & singula præmissa,

videlicet ad un. parcel. paſt. contin. dimid. acr. five plus five minus, cum pertin. nuper parcel. un. Cūſtumār. Tenementi & undec. acrārum ter' vocat. C. Tenement, in C. præd. quæ prædicet. L. M. nuper cepit ſibi & hæred ſuis poſt ſurſumreditionem fact. per quendam s. T. ad cur' general. cum let. ibid. tent. die Lun. proxim. poſt, &c. plenius liquet. Et admiss. eft inde Tenens, & ſeſin. inde ſibi eft deliberat'. Te- nend ſibi, hæred. & affign. ſuis per Virgam ad voluntatem Domini ſecund. conſuetud. Maner. &c. per ſervic. & conſuetud. &c. Et dat Domino pro fin. &c. Et fecit ei inde fideli- tam, &c.

The finding a Surrender made into Tenants Hands, to the Use of a Man's Will.

E T quod A. B. Cūſt. ten. iſtiuſ Maner. extra. cur. poſt ult. cur. ſcilicet 24 die Maii ult. præterit. ante Tit. hujus Cur. ſurſumreddid. in man. Domini hujus Maner. per man. C. D Cūſtum. tenen. ejusdem Maner. in preeſentia J. A. & S. A. ſimiſ. Cūſtum. tenen. præd. Maner. omnia Cūſtum. terr. & tenementa ſua tent. de Maner. iſto ad opus & uſum Test. & ult. voluntat. ejus.

The finding of the Death of a Tenant, and of the Lands, and that the youngest Son is next Heir according to the Cūſtum, &c. with his Admiffion.

E T quod W. D. Cūſtum. tenens iſtiuſ Maner. poſt ult. Cur. obiit ſolus ſeſit. de & in un. tenemento inclus. vocat. L. continen per estimat. quinque acr. jacen. in F. quod præd. W. nuper cepit ſibi & hæredibus ex ſurſumreditione J. S. prout ad Cur. hic tent. die Lunæ Matutino Sancti Johannis Bap- tift. Anno, &c. patet. Et de & in quinque acr. Cūſtumāt. ter' cum pertinent. tent. de eodem Maner. voc. B. quæ, &c. Et quod W. D. filius junior ejus eft prox. hæres ejusd. W. ſecund. conſuetud. hujus Maner. qui nunc ven. & petit ex gratia Dom. admitti ad preemissa cum pertinen. ſecund. conſuetudin. Maner. præd. & admissus eft inde tenens cui ſeſina inde ei concess. eft per Virgam ad voluntat. Dom. ſecund. conſuetud. præd. Maner. per ſervic. & conſuet. & redd. pro quinque acr. &c. ad 4 d. per annum & pro al' quinque acr. præd. terr. ad redd. s. per annum, &c. ſalvo jure, &c. Et dat Dom. pro ſine, &c. fecit Dom. fidelitat. &c.

The

The finding of a Sale made of Freebold Lands, with a Distress to the Bailiff to distrain for want of taking it up.

Item dicunt super Sacramentum suum, quod *J. A.* post ult. *Cur.* vendidit *R. A.* un. tent. voc. *T.* cum pertin. contin. per estimation. duas acr. quæ tenuit libere de isto Maner. in libro Socag. per fidelitat. & annual. reddit. 3 d. per annum, & sext. *Cur.* qui quidem *R. A.* non ven. &c. ideo præcept. est Ballivo quod distringat præfat. *R. A.* quod ad prox. *Cur.* fidelitat. faciat, &c.

The acknowledgment in the Court, of a Legacy paid.

Et quod *J. B.* in plena Curia cognovit seipsum satisfact. & plenar. solut. per *N. B.* fratrem suum de legatu ejus 19*l.* eodem *J. B.* per Testament. & ult. voluntat. patris ejus legat. secund. form. & effect. & ver. intention. dict. Testamenti. & ult. voluntatis patris ejus.

A Presentment of a Surrender made out of Court, with the Admission of the Tenant.

Jurat. præsent. super Sacramentum eorum quod. *J. S.* Custumar. ten. hujus Maner. extra Cur. scilicet decimo die Maii, anno, &c. sursumreddidit in manus Domin. hujus Maner. per man. *J. N.* Custumar. tenen. hujus Maner. in præsentia. *J. G.* & *G. F.* Custum. similiter. tenen. hujus Maner. omnia terr. & tenement. Custumar. cum pertin. quæ de hoc Maner. tenuit ad opus & us. *R. K.* & hæred. suor. & assignat. imperpet. qui nunc ven. hic in Cur. & pet. ex gratia Dom. admitti ad omnia & singula præmiss. præd. cum pertinen. videlicet ad un. Mess. decass. cum quibusd. terr. in C. contin. per estimation. sex acr. five plus five minus, cum pertinen. parcell. duor. Cottag. & sex acr. ter. de tenemento de *H.* cum pertinen. &c. quæ idem *J. S.* nupercepit sibi hæredib. & assign. suis ad Cur. tent. pro Maner. præd. post surf. reddition. inde fact. per *J. C.* prout ad Cur. pro Maner. præd. tent. die Jovis 17 die Maii, anno, &c. plenius liquet & appetet. Et admissus est inde Tenens cui seifina est inde concess. habend. sibi, hæred. & assign. suis per virgam ad voluntat. Dom. secund. consuet. Maner. præd. per servic. &c. & redd. 2*s.* per annum salvo jure, &c. Et dat Dom. pro sine, &c. Et fecit Dom. fidelitat', &c.

A Presentment made in Court of an Agreement made between a Son and his Mother, touching her Dowry, and the Mother's Release of her Dower.

ET postea in Cnr. ista ven. predict. N. B. & E. B. vid. reliq. ejusdem R. B. & sunc intelligi dant Cnr. quod inter seipos consens. fuit de & pro dote ipsius E. B. in præmissis secund. consuetud. Maner. predict. unde predict. E. B. presens hic in Cnr. remittit & relaxat in man. Domini predict. omnem Dotem suam & titulum dotis & demand. quæ eidem E. B. pertinent secundum consuetudinem Maner. de & in omnibus & singulis terr. & Tenement. Custom. de Maner. isto tent. quæ nuper fuer. dist. R. B. quondom viri sui ad opus & usum N. B. (in plena & pacifica possessione sua modo existen.) & Hæred. & Assign. suor. imperpet. ita, (videlicet) quod eadem E. B. abhinc non exigere, clamare & vindicare poterit ullam dotem, de, in, vel ad præmiss. vel aliquam inde parcell. secund. consuetudin. Manerii predict. Sed de ea ac de & ab omn. action. & demand. talis dotis de & concern. præmiss. per irrotulament. harum præsen. imperpet. præclus. & exclus. erit. Et pro hac remissione & relaxatione, predict. N. B. eidem E. B. reddit 250 l. legalis moneta Angliæ, & dedit Domino pro fine, &c. pro relaxatione predict. &c.

**A Pain set
for an In-
croach-
ment.**

Juratores dic super Sacramentum eorum quod T. O. incrochavit fossat. super Com. H. S. versus le milking yard de Messuag. suo, Ideo est in misericordia prout patet super caput ejus.

**A Pain set
for the am-
mending of
the same,**

Et præcept. est ei ad incrochiament. predict. reformat. citra Festum Sancti Michaelis Arch. proxim. sequen. sub pen. prout super caput ejus.

**O. c.
The finding
of a Pain
fortified.**

Ac etiam dic quod S. A. forisfecit pen. de s. r. super ips. ad ult. Cnr. imposit. quod ipse post ult. Cnr. & post noctem sibi in contrar. per Balliv. hujus Maner. dat. permisit porcos suos egredi. & depascere super Com. pastur. H. cont. mandat inde sibi in contrar. dat.

A Pre-

*A Presentment of an Offence done, and a Charge to
the Jury to enquire, and further Day given for
their Verdict.*

CUM W. L. & G. B. Domini Maser. de R. un. Querc. nuper crescen. ad Occident. part. ejusd. le Pightel voc. B. Pightel dominical. terr. hujus Maner. in tenur. F. W. nuper succider. & ad hanc. Cur. ad inquirend. per homagium in onere dat. fuit & illos ad reddend. Verdict. Inde & super premissis, homag. præd. temp. petunt pro veredict. eor. reddend. usque prox. Cur. quia nond. inde avisat. sunt, Sc. Et habent. Sc. J. A. tenens Costumar. hujus Maner. pet. ad finem admitti pro respectu servic. Cur. faciend. & almiss. est pro 4 d.

A Fine desired for Respite of a Suit to be done.

CUM ad ult. Cur. in onere dat. fuit homag. ad inquirend. & reddend. veredict. eor. de & concernen. succision. un. Querc. nuper ante tunc crescen. ad Occident. part. ejusd. le Pightel voc. B. Pightel dominical. terr. hujus Maner. in tenur. F. W. per W. S. & G. B. Domin. de Maner. de R. nuper ante temp. illud succid. Et ad Cur. eand. dies uker. dat. fuit usque hanc Cur. Jurator. hujus Inquisition. nunc dic. super Sacramentum eor. quod tam per Testimonium A. B. un. ten. hujus Maner. ad hoc specialiter jurat. quam de cert. scientia aliquor. homag. nunc jurat. quod præfat. F. W. & omnes illi quor. statum præd. F. habet in præd. Pightel Custumar. a tempore in tempus per spaciun. sexagint. annos. nunc ult. elaps. quiete & sine contradictione. succider. ceper. & asportaver. & gavisi fuer. omnibus boscis a tempore in tempus per spatium sexagint. annos. super part. viam crescent. & ad Occident. part. ejusd. Pightel. & quod sepes prædict. Pightel. per omne tempus prædict. profit. fuer. & adjacer. eidem Quercui & quod major pars crassitatus Quercus illius extendebat se versus eand. viam. Et ulterius dic. Quod nunquam fuit aliquod Fossat. ubi præd. quercus crescebat. Et ulterius dic. per Testimonium ejusd. R. A. quod præd. R. A. olim habens in occupatione sua le Pightel præd. a tempore in tempus per diversos annos collegit & habuit glandulas Quercus præd. absque aliqua contradictione.

Ad hanc Cur. ven. *J. W.* & *R.* uxor. ejus praesentes hic in Cur. in propriis personis suis. Et prefat. *R.* per Seneschall. Cur. ejusd. sola ac secreta examinata & consentiens sur. reddider. in man. Dom. ejusd. Maner. & remiser. relaxaver. & imperpet. pro se haeredibus & assign. suis quiet. clamaver. ad opus & usum *S. N.* & haered. suor. omne justuum, titul. stat. us. interesse & demand. quecunque que unquam habuer. nunc habent, seu quovismodo in futuro habere poterint, vel illi, seu alter eor. habere poterit secund. consuetud. ejusd. Maner. de in vel ad septem acr. terr. & unum Melleuag. parcel. Tenementi voc. *s.* ac de in & ad duas acr. terrar. Custumar. Tenementi de *W.* &c. quæ quidem præmissa prædict. *s.* nuper habuit & cepit & nunc tenet sibi & haered. suis. post sur. reddition. inde per *J. W.* fact. prout ad Cur. ibidem tent. die Mercurii. 21 die Martii, anno, &c. plenius ad largum patet ad opus & usum præd. *S. N.* & haered. suor. adeo, (videlicet) quod neque præd. *J. W.* & *R.* nec alter. eor. nec haered. eor. nec Hered. alter. eor. adhinc exigere, clamare vel vindicare poterit ullum statum jus titulum domum & demand. inde habend. abhinc omnino præclus. & exclus. est per hanc præsent. sur. reddition. remission. & relaxation. præd. &c dat. fin. Domino, &c.

A Surrender of a Copyhold in Court, with the Admission of the Tenant accordingly.

Ad hanc Cur. ven. *A. B.* gen. Custumar. Tenens hujus Man. & præsens hic in Cur. sur. reddidit in Manus Domini ejusd. Maner. duas acr. & dimid. terr. jacen. in duabus pec. in C. five plus five minus, unde prior pars jacet inter, &c. alt. pec. cont. per æstimat. dimid. acr. & jacet, &c. quæ quid. duas acr. & dimid. pred. *A. B.* nuper in Cur. cepit sibi haeredibus & assign. suis post sur. reddition. inde fact. per *J. W.* prout ad Cur. hic tent. die Vener. 16 die Maii, anno, &c. plenius liquet, ad opus & us. *J. W.* & *R.* uxor. ejus & haered. ipsius *J. W.* qui quidem *J. W.* & *R.* præsen. hic in Cur. ex gratia Domini petunt admitti ad pred. duas acr. & dimid. terr. secund. form. & effect. sur. reddition. pred. & inde admitti sunt tenentes, quibus seisin. inde concess. habend. & tenend. præd. *J. W.* & *R.* haered. ipsius *J. W.* de Dom. per Virgam ad voluntat. Dom. secund. consuetudin. Maner. per servic. &c. & redd. 2*s.* per annum salvo iure, &c. dat Dom. pro fine, &c. Et prefat. *J. W.* fecit Dom. fideli-
tat. &c.

A Surrender and Lease made in a Court, with the Examination of the Wife.

ET postea ad hanc Cur' ven. predict' J. S. & M. ux. ejus, & hic præsens in Cur. & pred. M. sola & secreta examinata per Seneschal. ejusd. Cur. & consentiens sursum reddider. remiser. & relaxaver. in man. Domini Man. pred. tot. jus, stat. tot. possession. Dot. & demand. illor. pred. J. S. & M. de, in, & ad omnia & singulaj præmissi. predict. cum pertin. ad opus & usum predict. R. K. hæred. & assign. suor. imperpetuum (nunc in plena & ampla possession. existent.) ita quod neque pred. J. S. & M. vel aliquis eorum abhinc requirat clamet & demandet ullum jus, titulum, dotem aut demand. de, in, vel ad præmissi. aut ullam inde part. aut parcel. sed ab omni actione, jure, titulo, dote aut demand. hac irrotulatione excludentur & predict. J. S. pro remission. & relaxation. predict. dat Domino pro fine, &c.

A Surrender of Lands made in Mortgage, upon Condition for the Payment of Money, with the Admission of the Mortgagee by the Attorney, and the Fealty respited.

ET immedio post predict. Cur. prædict. N. B. præsens in Cur. sursumreddidit. in man. Domini predict. per man. seneschall. Manerii predict. un. pec. terr. contin. per æffimation. duas acr. terr. arabil. terr. jacen. inter. terr. Manerii R. nuper de N. B. de parte occident. una cum viis & servit. eidem spectant. & usitat. que quidem pec. ter. R. B. pater R. B. pater predict. F. cuius hæres ipse est. nuper (inter alia) habuit sibi hæred. & assign. suis post sursumredditionem inde factam per W. B. & E. uxorem ejus, prout ad Cur. general. cum Let. ibidem tent die Jovis prox. post, &c. Anno, &c. liquet ad opus & usum F. D. un. filiarum N. D. gen. & hæred. & assign. ipsius F. sub hac forma & conditione quod si predict. N. B. hæred. execut. & administrat. sui vel aliquis eorum solverent vel solvi fecerint eidem F. D. hæred. executor. administrator. & assign. suis, apud Domum Mansional. ejusd. R. B. in H. in Com. Ebor. gen' sum' 20/. bon. &c. in vel super 28 diem Octobris prox. sequent. post titulum hujus Cur. quod tum sursumreddito predict. vacua erit & nullius effect. seu virturis. Et quod tunc etiam licet. erit eidem

eidem N. B. hæred. & assign. suis re-intrare in dict. per terr. & eand. prout in priore stat. suo rursum habere, re-pollidere & regaudere, pred. suis reddition. vel aliquo in ead. in contrar. non obstant. Et super hoc pred. F. per Attornat. suum in hac parte admiss. est. inde tenens, & scis. inde eidem F. hæred. & assign. suis sub conditione pred. concess. & modo & forma predicta per Virgam ad voluntatem Domini secund. Confuetudin. Manerii pred. per servic. &c. salvo jure, &c. Et dat dominio pro fine, &c. Et fidelit. respectuat. quibusque, &c.

A Surrender of Lands made presently in Court.

A Surrender made by one to his Mother of Lands for Life, the Reversion to the Son again, and Heirs.

Et postea eadem Cur. sedēn. pred. F. W. præsens in Cur. sursum reddidit in man. Domini ejusdem Man. Clauſ. pred. concin' per estimation' quinque acr. terr. vocat. L. ad opus & usum C. W. frattis ejus, & hæred. & assign. ejusdem C. cui quidem C. leui. inde concess. habend. sibi hæredibus & assignat. suis per virgam ad voluntat. Domini secundum consuetudin. ejusdem Maner' per servic', &c. salvo jure, &c. Et dat Domino pro fine, &c. Et fecit inde Dom. fidelitat. Et idem E. W. præsens hic in Cur. sur. reddidit in man. Dom. per man' Seneschall. ejusdem Maner' predict' sept' acr. terr. in un. Clauſ. modo in duas partes separat. cum sepe & fossat. ad opus & us. J. W. vid. matr. ejus, & assign. suor. in forma pred. pro termino vita natural. ipsius J. W. cui quid. J. W. & assign. suis scis. inde concess. est in forma pred. reversion. inde eidem E. W. hæred. & assign. suis spectat. tenet. per Virgam, &c. ad voluntat. Dom. &c. secundum consuetudin. Maner. pred. salvo jure, &c. Et dat Dom. pro fine, &c. Et inde fecit Dom. fidelitat. &c.

A Release of Lands in Court.

Ad hanc Cur. ven. S. B. & præsens in Cur. sur. reddidit remittit & relaxavit in Man. Dom. secund. consuetudin. istius Maner' tot. jus suum, titul. stat. possession. interest & demand. de & in omnibus ill' parcell' de Orchard ipsius N. vocat. le old, five further Orchard, prox' adjungen. le Pightel five clauſ. pastur' ipsius & vocat. le Bean Close, prout sunt separat. a pred. le Pightel five clauſ. cum le Door Stakes polit. super front. fossat. dicti le Old Orchard, ad opus & us. N. B. fratt' ejus (in plena & pacifica possessione existen.) & hæred' & assign' suis imperpet. ita, viz. quod nec ipse S. nec hæred. sui abhinc aliquod jus, titul' stat' claméum vel de-

demandā in pred. pec' terr. vindicare exigere, vel clama-
re poterint. Sed ab omni actione, iur. titul. stat. us. inter-
esse & demand. inde habend. abhinc omnino præclus. &
exclus. sūt & quilibet eorū in perpet. præclus. & exclus.
erit per haram present. irrotulation. Et pred. N. pro pred.
remissione & relaxatione dat pro fine Dom. &c;

Maner. de B. sc. Curia Baron. generalis P. Q. Mil. Dom.
Manerij pred. ibidem tenuit pro manerio pred. die uaneus
scilicet primo Martii Anno Regni Domini Gui. Tertiæ
Dei Gratia Anglia Scotie & Hibern. Regis Fi-
dei Def. &c. Duodecimo Annog; Dom. 1699. Curiam A. B.
Generosa Senescallo ibidem.

Homagium ibidem.

A. B. C. D. E. R. &c. Jur.

Ad hanc Curiam Homagium pred. super Sacramentum
suum præsentat quod **A. B.** tenens Custumar. hujus manerii
citra ultimam Curiam scilicet viceanno die Januarii Anno
Dom. 1699, fecit vastum super unum Custumar. Clausum Pa-
sture vocat. **E.** infra manerium pred' quod pred. **A. B.** tenu-
it de Dom. hujus manerii per Copiam Rotulor. Cur. suc-
cidendo & vendendo duas magnas fraxinos ulnos tunc crescen-
super Clausum pred. contra consuetud. manerii pred. per
quod pred. **A. B.** forisfecerit Dom. hujus Manerii omnia
Custumar. terras & Tenementa quæ ipse tempore confec-
tion. vasti predict. tenuit de Domin. Manerii predict. I-
deo præceptum est Ballivo ejusdem Manerii quod seiziat
eadem terras & Tenementa in manus Domini Manerii pre-
dict. &c.

Tenements
forfeited by
the Copy-
holders sel-
ling Trees.

Præsentat quod circa ultimam Curiam scilicet tertio die
J. ult. præterit. **C. D. & E. F.** adiunc Custumar. tenentes
bujus Manerii existen. ceperunt & acceptaverunt quandam
sursumredictionem in manus Domini Manerii pred. per
G. H. Gen. adiunc factam de omnibus terris Custumar. ipsius
G. H. ad usum **J. K. Gen. Hæred. & Assign.** suorum, quodq;
predict. **C. D. & E. F.** non præsentaver. sursumredictionem
pred. ad hanc Cur' existen' primam Cur' prox' post captio-
nem sursumredit' pred. sed eandem sursumredictionem
vacaver. & cancellaver. contra Consuetudinem Manerii pre-
dict. per quod predicti **C. D. & E. F.** forisfecer. Domino hu-
jus Manerii omnia terras & Tenementa sua quæ nunc re-
spective tenant de Dom. hujus Manerii per Copiam Ro-
tulorum

Forfeiture
for not de-
livering in
to Court a
Surrender.

telorum. Cur. Et præcept. est Ballivo seizire eadem terras & Tenementa in manus Dom. Manerii pred. &c.

Readmit-
tance of the
Copyhol-
der.

Modo ad hanc Curiam venit pred. C. D. in propria persona sua & humiliter petit se re-admitti Tenen. ad Ter. & Tenemeta cum pertin. per ipsum ut præfertur forisfact. videlicet ad tres acras terræ in B infra. maner. pred. cui quidem C. D. Dominus hujus manerii ex gratia sua per Seneschallum suum pred. recontestis inde seisinam Habend. & Tenend. præmissa pred. cum pertin. præfat. C. D. Hæred. & Assign. suis de Dom. ad voluntat. Domini secund. consuetud. ejusdem manerii pet. se. Cur. & redd. per annum 2 s. & al' Servicia inde prius debit. & de jure consuet. Et dat Dom' pro fine pro tali readmissione sua 5 l. fecit fidelitatem sic salvo semper Jur. Dom. & pred. E. D. readmissus est inde Tenens in forma predicta.

A Lease made by the Lord of Parcel of his Lands.

AD hanc Cur. Dom. hic in plen. Cur. ad firm. dimisit 3. A. un Gardin. contin. dimid. Rod. jacens, &c. Et dimid. acr. terr. in F. de terr. Dominical. Maner. Habend. sibi. Executor. & Assign. suis pro termino quinque; annor. proxim. sequent. post titul. hujus Cur solvend. inde annuatim pro qualibet anno duran. termin. pred. 1 d. ad Fest. &c. Et dat pro fine Domin. &c. Et Dom. inde fecit fidelitatem, &c.

The Admission of the younger Son to Lands according to Custom.

AD hanc Cur. ven. E. F. filius jun. & prox. hæres J. W. defunct. & pet. ex gratia Dom. admitti tenen. ad un. parcell. terr. continen. in longitudine vigint. pertic. & in latitudine tres pedes, & un. pec. terr. Custumar. vocat. B. continen. per aestimation. tres acras terr. in qua dicta parcell. fossat. nuperrime fact. est. quæ quidem parcell. terr' J. W. Avus præfat. F. W. nuper habuit sibi. Hæred. & Assign. suis sursumredditione J. A. prout ad Cur. pro Maner. pred. tent. 24 die Maii, anno, &c. liquet ut jus & hæred. sua quia pred. J. W. inde seis. obiit & predict. parcell. ter. per & post mortem præfat J. W. secundum consuetud. Man. pred. ad pred. F. W. patrem predict. F. W. descendebat. Et a pred. F. W. patre ejus parcell. pred. ad prefat. F. W. Juniores descendebat & inde admissus est tenens cui seisin. Confess.

cess. habend. sibi, Hered. & Assign. suis per virgam ad voluntat. Domin. secund. consuetud. Man. pred. red. 2 d. &c.
Et servicia, &c. consuetud. Maner. pred. per red. 2 d. &c.
servic. &c. salvo jure, &c. Et pro fine dat Domino, &c.
Et Dom. fecit fidelitat. &c.

A Licence by a Lord of a Manor to a Copyholder to pull down Houses standing on Copyhold Lands.

To all and singular Surveyors, Bailiffs, and other Officers whatsoever within my Manor of Skepton, in the County of Y. I., E. L., of B. send greeting: Whereas I am informed, that G. H. hath lately purchased of T. G. certain old Houses within the said Manor, being Copyhold, and that the said T. G. hath surrendred the same Houses, to the Use of the said G. H. and his Heirs, according to the Custom of the said Manor: Now my Will and Pleasure is, and I do by these Presents give and grant unto the said G. H. his Heirs and Assigns, full Licence and absolute Liberty, Power and Authority to pull down, and to take and carry away the said Houses, and every of them, to and for the Use of the said G. H. and his Heirs and Assigns from Time to Time, as to him or them, or any of them, shall seem meet; any Custom or Usage whatsoever within the said Manor (if any such be, or heretofore hath been had or used) to the contrary thereof in any wise notwithstanding. And I will and command you, and every of you, that the said G. H. and his Assigns, may quietly have and enjoy the full and whole Benefit of my said Grant and Licence, without any Denial, Let or Impediment of you, or any of you. In witness whereof, &c.

A Letter of Attorney to surrender a Copyhold.

BE it known unto all Men by these Presents, That I, A. B. one of the Customary or Copyhold Tenants of the Manor of H. in the County of M. have made, ordained, constituted and appointed; and by these Presents do make, ordain, constitute and appoint, my trusty and wel-beloved Friends, C. D. and E. F. two Customary or Copyhold Tenants of the Manor aforesaid, may lawful Attorneys and Attorney jointly and severally, for me, and in my Name, jointly and severally by lawful Ways and Means, to surrender into the Hands of the Lord or Lords, Lady

or Ladies, Farmers, Owners, or Proprietors of the said
 Manor of H. aforesaid, all the Customary or Copyhold
 Mesnage or Tenement, with the Appurtenances, situate,
 lying and being in H. aforesaid. Parcel of the Customary
 Lands of the said Manor; and all my Estate, Right, Title,
 Interest, Claim, Possession and Demand, of, in, to, and out
 of every Part and Parcel thereof, to the Use and Behoof
 of T. W. his Heirs and Assigns for ever: And I, the said A.
 R. do hereby give and grant unto them, the said C. L. and
 Z. F. jointly and severally, and to either of them, full Power
 and Authority to do, execute, and perform any other
 lawful Act and Act whatsoever, needful or necessary to
 be done in, for, or about the better effecting of the Pre-
 mises, as fully and amply to all Intents and Purposes, as
 I my self might do in Person or otherwise; and what-
 soever my said Attornies, on either of them, shall jointly
 or severally do in the Premises, according to the true In-
 tent and Meaning of these Presents; I do hereby allow
 of, ratify and confirm. In Witness, &c.

The Grant of a Stewardship.

To all to whom these Presents shall come. A. B. Kt.
 sendeth greeting, Know ye, That I, the said A.
 R. for divers good Causes and Considerations me thereun-
 to moving, have, for me, my Heirs and Assigns, given
 and granted, and by these Presents do give and grant un-
 to John Preston of B. Gent. the Office of Chief Steward,
 and the Place and Execution of the Stewardship of my Ma-
 nor of Skipton in Craven in the County of York. And the
 holding and keeping of all Courts, Court-Leets, Views of
 Frank-pledge, and of all other Courts of what Kind so-
 ever the same be, to the said Manor belonging, or in any
 wise appertaining: To have, hold, execute, and enjoy the
 aforesaid Office of Chief Stewardship, and the Place
 and Execution of Chief Steward, and the holding and
 keeping of all Manner of Courts usually held and kept within
 in the same, together with all manner of Fees, Wages, Rewards,
 Profits, Advantages, and Emolument, to the said Office of
 Chief Steward or Stewardship of the said Manor or Lord-
 ship belonging or appertaining, or at any Time heretofore
 accustomed and used to be paid, rendred to, or received, by
 the Chief Steward or Stewards there for the Time being
 from henceforth, for and during the natural Life of him
 the said John Preston. In witness, &c.

Anoth.

Another of several Musters;

KNow all Men by these Presents, That I, W. K. &c. in the County of York, Esq; have given and granted unto T. W. of the City of York, Gent. the Office of Steward or Stewardship, of all my Manors and Lordships of, &c. in the County of York; And the Custody or Office of keeping all and Singular Courts and a Court Leet, View of Frank-pledge, Courts and Court-Borers within all and singular my said Manors and Lordships; and by these Presents do constitute and make him my Steward of the same Courts. To have, hold, exercise, and enjoy the said Office, with the Appurtenances, together with all and singular Fees, Profits, Perquisites and Advantages to the said Office of Stewardship belonging, or in any wise appertaining to the said T. W. by himself, or his sufficient Deputy or Deputies, during my Pleasure: And I do hereby give and grant unto the said T. W. for exercising the Office aforesaid, the certain Fee, Annuity or yearly Sum of 50 l. of lawful Money of England, to be issuing out of my said Manor of B. and paid unto the said T. W. or his Assigns at the Feast of St. Michael the Arch-angel yearly by me the said W. K. or my Assigns, during the Execution of the said Office of Stewardship.

A Presentment and Admittance of the Heir on the Death of a Copyholder.

Ad hanc Cur. presentat. est per Homagium pred. quod A. B. nuper unus Customar. Tenen. Maner. pred. qui tenuit sibi & Hered. suis de Dom. Maner. pred. per Copiam Rotulor. Cur. secund. cons. Maner. pred. unum Cotag. five Tenemen. Et. cum pertin. per annual. redd. 6 d. fidel. lect. Cur. & al. servic. inde prius debit. & de Jure consuet. obiit sic inde seipst. quodque A. B. fil. presens hic in Cur. petit se admitti tenen. ad premissa pred. cum pertin. cui Dominus per Senesc. suum pred. concessit inde seisin. per Virgam. Habend. & Tenend. omnia & singula premissa pred. cum perian. prefat. A. B. fil. Hered. & Assign. suis imperpetuum de Domino per Virgam ad voluntat. Domini secundum cons. Maner. pred. per annual. redd. 6 d. fidel. lect. Cur. & al. servic. inde prius debit. & de Jure consuet. Et dat Domino pro Fine pro gall ingressu. Et fecitque fidel. Et Admis. sus est inde Tenens.

If under
Age say
*& a. etis &
Ann. or
the Child's
Age.*

A Presentment and Admittance on Surrender.

Follow the
Words of
the Sur-
render.

When 'tis
apportion-
ed.

AD hanc Cur' Presentat. est per Homag. pred. quod A. B. unus Customar' tenen' Maner. pred. citra ult. Cur' scilicet primo die Junii Anno Dom. Millefuno Septingentesimo Secundo secundum consuetud. Maner. pred. sursumredd. in manus Domini Maner. pred. per manus C. D. & E. F. duor. al' Customar' tenen' Maner. pred. duas Aeras terr' Arabil jacen. in Campo vocat Northfeild in Stadio vocat. le lower Furlong terr. W. R. ex Oriental. parte & terr. T. R. ex occident. parte cum pertin. Ad opus & usum G. F. de H. in Com. B. Yeom. Hered. & Assign. suor. imperpetuum. Modoque ad hanc Cur. venit pred. G. H. & petit se admitti tenen' ad premissa pred. cum pertin. cui Dominus per Senesch. suum pred. concessit inde seisin. per virgam. Habend. & Tenend. premissa pred. cum pertin. prefat. G. H. Hered. & Assign. suis imperpetuum de Domino per Virgam ad voluntat. Domini secundum cons. Maner. pred. per annual. redd. 3 d. (per apportionament.) fidel. seet Cur. & al. Servic. inde prius debit. & de jure consuet. Et dat Domino pro fine pro tali ingressu suo prout patet in margine fecitque fidel. Et Admissus est inde Tenens.

Note, If the Heir be under Age he may be admitted by his Guardian, and then it must be entred thus: Qui quidem A. C. fil' per C. D. Guardian. suum venit hic in Cur' & petit se Admitti Tenen'. ad premissa pred. cum pertin. cui Dominus per Seneschal. suum pred. concessit per Guardian. suum pred. inde seisinam per Virgam. Habend. & Tenend. Premissa pred. cum pertin. eidem A. B. fil' Hered. & Assign. suis imperpetuum. &c. ut supra. Only at last instead of fecit fidel. it must be said fidel. respectuatur quoisque, &c. Or if any one of full Age be admitted by his Attorney (as he may be) in the Case only put Attorn. suum for Guardian. suum. Note also, There is a Fee due to the Steward, for admitting either by Guardian or Attorney, more than the Fee of the Common Admittance, and in most Places 2 s. 6d.

An

An Admittance on a Presentment made at a former Court.

CUM ad Cur' Baron. hic tent. pro Maner. pred. pri- If by De-
mo die Octobr' Anno Domini Millesimo Septingent. scient then
primo presentat. sicut per tunc Homag. quod A. B. tunc hu- alter it
per unus Customar. tenen. Maner. pred. qui tenuit sibi & *ut supra*.
Hered' suis de Domino hujus Maner. per Copiam Rotulorum
Cur' secundum consuetudinem Manerii pred. unum Messua-
gium sive Tenementum, &c. cum pertin. per Annual. redd.
11 s. & 4 d. fidel' leet' Cur' & al' Servic. inde prius debit.
& de Jure consueta obiit sic inde seisit. quodque J. B. est Or Etatis,
ejus fil' & prox' Heres & plene Etat. Et modo ad hanc &c. if an
Cur' Ven. predict' J. B. & petiit se admitti tenen. ad pre- Infant.
missa pred. cum pertin. Cui Dominus per Senesc. suum
pred' conciliet inde seisinam per Virgam. Habend. & Tenend.
ut *supra*.

A Presentment and Admittance to the Use of a Man's last Will.

CUM ad Cur' hic tent. pro Maner. predict. 11 die Maii
Anno Domini 1628. T. B. de Lond. Gen. unus Customar.
Tenen. Manerii pred. in plena & aperta Cur. sursumredd.
per Virgam in Manus Domini dicti Manerii secund. Consuet.
Manerii pred. unum Camp. vocat. Leyfield & unum septi-
ment. Bosci eidem adjungen. continen. insimul per Estimati-
on. quatuordecim acres plus five minus Et un' Campum vo-
cat. Cherry-tree Croft contin. per Estimation. tres acres plus si-
ve minus & duos Campos unde unum vocat. Highwood al.
vocat. Highwood Pightell abutt. super Leversitt Lane ex parti
te Austr. continen. per Estimation. sexdecim acres plus five
minus Et unum Campum vocat. Shipton Field contin. per E-
stimation. decem acres plus five minus abutt. super venellam
pred. ex parte Austr. cum omnibus & singul. pertin. omnia
que premissa predicta sunt situat. jacent. & existen. apud vcl
prope Levesden in Paroch. de Watford. Ad opus & usum dicti
J. B. & L. ux' ejus pro & duran. termino vitar. suar' na-
tural. & vite alterius eorum diutius viven. & post dece-
sum eorum superviven. tunc ad opus & usum tal. persone vel
personar' & de & pro tali statu vel statibus qual. dictus T.
B. per ult. voluntat. & Testament. ejus limitaret vel ap-
punctuaret. Et pro defect. talis Testamenti tunc ad opus

Note. In all
Cases to
follow the
Words of
the Surren-
der, lest the
Justice or
Ability of
the Stew-
ard be que-
stioned.

Courts-Baron.

452
& usum rest. Hered. dicti T. B. imperpet. Et quod pred. T. B. condidit ult. voluntat. & Testament. suum in script. modo hic in Cur' prolat' geren. dat. 6 die Maii Anno Dom. (57) Tenor unde sequit. in his Anglican. verbis (viz.) *In the Name of God Amen, I, T. B. of L. in the County of N. Gen. &c. Et paulo interius in eodem Testamento sic continetur. Item, I will and devise all my Copyhold Lands, cum pertin. situate and being in the Parish of W. aforesaid, with one Close of Meadow, being Freehold, called M. spm pertin. Situate and being in the Parish of H. in the County of R. unto my Daughter Anne, and her Heirs lawfully begotten, and so to be begotten. Et modo ad hanc Cur. Homagium pred. super Sacramentum suum present. quod predict. T. B. & L. ux' ejus obier. Et pred. A. B. presens hic in Cpr. pet. se admitti ad premissa pred. Cui Dominus per Seneschal. suum predict. concessit inde seisinam per Virgam. Habend. & Tenend. premissa pred. cum pertin. eidem A. B. secundum formam & effect. sursumredd. & Testimenti predict. de Domino per Virgam ad voluntat. Domini secundum consuetudinem Manerii pred. per Annual. reddit. 9 s. 4 d fidel. Secl. Cur. & al. Servic. inde prius debit. & de Jure Consuet. & pro ingr. suo inde dat Domino de fine prout patet. &c. Et fec. fidel. Et Admissa est inde Tenens.*

A Recovery in a Court-Baron.

Surrender by the Tenant in Possession to make another Tenant against whom the Recovery might be had.

ADhanc Cur. Testat. est per Homagium quod A. B. unus Customar. Tenen. Manerii pred. venit & in plena & aperta Cur. sursumredd. per Virgam in manus Domini Manerii predict. per manus R. C. Gen. Senescal. sui Manerii pred. secundum consuetud. ejusd. Manerii uolum campum vocat. Leyfield curia pertin. Ad opus & usum R. W. Hered. & Assign. suorum imperpet. Et Modo ad eand. Cur. ven. predict. R. W. in propria persona sua & pet. se Admitti ad Premissa pred. cum pertin. Cui Dominus per Seneschal suum pred. concessit inde seisinam per Virgam. Habend. & Tenend. Premissa pred. cum pertin. eidem R. W. Hered. & Assign. suis imperpet. de Domino per Virgam ad voluntat. Dom. secundum consuetudinem Manerii predict. per Annual. reddit. 9 s. 6 d. fidel. Secl. Cur. & al. Servic. inde prius debit. & de Jure consuet. & pro ingressu suo inde dat Domino de fine prout patet. &c. Et fec. fidel. Et Admissus est inde Tenens pro fine 20 s.

Et postea ad hanc eandem Cur' ven. W. P. Ar' in propr. persona sua & querit. versus prefat. R. W. de placito terti. videlicet de uno Campo vocat. Leyfeld cum pertin. pred. Et sec. protestation. ad prosequend. queret. suam in forma & natura brevis Dom. Reg. de ingressu super disseminam in le pos. &c. Et iuvan. pleg. de pros. queret. suam pred. in forma pred. vix. J. D. & R. R. &c pet. Proces. Super inde ei fieri versus prefat. R. W. secundum consuetud. Manerii pred. retorn. &c. Et ei conceditur. &c. Et super hoc pred. R. W. presens hic in Cur' in propr. person. sua gratis comperuit ad respond. prefat. W. P. in plac. pred. Et superinde pred. W. P. petit vers. pred. R. W. Tenem. pred. cum pertin. infra Jur' hujus Cur. ut jus & Hereditat. suam. Et in que pred. R. W. non habet ingressum nisi post disseminam quam H. H. inde injuste & sine judicio fec. pres. W. P. infra tricint. Annos jam ult. elapsos. &c. Et unde dicit quod ipsemel seil. fuit de Tenement. predict. cum pertin. in Dominico suo ut de feod. & jure ad voluntat. Domin. secundum consuetudinem Manerii pred. tempore pacis tempore dict. Dom. Regim. nunc capiend. inde exples. ad valenc. &c. Et in quo. &c. Et inde produc. seftam. &c.

appears gratis. Demandant counts against him.

Et pred. W. M. in propr. persona sua venit & Defend. jus suum quando. &c. Et vocat. inde ad Warrant. A. B. qui presens est hic in Cur. in propr. person. sua. Et gratis Tenementa pred. cum pertin. ei Warrant. &c. Et super hoc pred. W. P. pet. versus ipsum A. B. Tenen. per Warrant. suam Tenement. pred. cum pertin. in forma pred. &c. Et unde dic. quod ipsemel seil. fuit de Prem. pred. cum pertin. in Dom. suo ut de feodo & jure ad voluntat. Dom. secundum consuetudinem Manerii pred. tempore pacis tempore dict. Dom. Regim. nunc capiend. inde exples. ad valenc. &c. Et in que. &c. Et inde produc. seftam. &c.

Et pred. A. B. Tenen. per Warrantiam suam venit & Defend. jus suum quando. &c. Et ulterius vocat inde ad Warrant. N. H. qui similiter presens hic in Cur. in propr. persona sua. Et gratis Tenem. pred. cum pertin. ei Warr. &c. Et super hoc pred. W. P. petit versus pred. N. H. Tenen. per Warrant. suam Tenementa pred. cum pertin. in forma pred. &c. Et unde dic. quod ipsemel seil. fuit de Tenement. pred. cum pertin. in Dom. suo ut de feodo & Jure ad voluntat. Dom. secundum consuetud. Manerii pred. tempore pacis tempore dict. Dom. Regim. nunc capiend. inde exples. ad valenc. &c. Et in quo. &c. Et inde produc. seftam. &c.

Tenant by
Warranty
pleads the
general Iff-
sue. De-
mandant
prays an
Imparimente
until 11 a.
Clock, and
it is grant-
ed.

At the Hour
the Deman-
dant ap-
pears, but
the Tenant
makes De-
fault.

Judgment
for the De-
mandant to
recover a-
gainst the
Tenant in
first Plain-
t, and for that
Tenant to
recover a-
gainst his
Vouchee,
who con-
verses against
the Com-
mon Vou-
chee.

Precept for
Seizin a-
warded.

Precept re-
turned ser-
ved.

Et pred. N. H. tenen. per Warrant. suam ven. & defend. jus suum quando; &c. Et dic. quod pred. / H. H. non dis-
seisivit predict. W.P. de Tenen. pred. cum pertin. prout pred. W. P. per querelam & Narrationem suas pred. (super inde) suppon. Et de hoc pon' se super Homag. &c. Et pred. W. P. pet. licenc. inde interloquend. hic usque ad undeci-
man horam ante meridiem hujus instantis diei Et habet. &c.
eadem hora dat. est prefat. N. H. essendi hic, &c.

Et postea scilicet ad hanc Cur' ad pred. horam pred. W. P. revenit hic in Cur. in propria persona sua & pred. N. H. licet solemnit. exact. non revenit sed in contempt. Cur. re-
cessit & defalt. sec. ideo consideratum est per Cur. predict. quod predictus W. P. recuperet seisinam suam versus pre-
fat. R. W. de premissis pred. cum pertin. Et quod pred. R. W. habeat de Terr. Customar' pred. A. B. infra hoc Maner. ad valenc. &c. Et quod pred. A. B. ulterius habeat de Terr. pred. N. H. infra hoc Maner. ad valent. &c. Et idem N. H. in misericordia. &c. Et super hoc pred. W. P. pet. pre-
cept. de habere faciend. ei plenar. seisinam de Tenement. pred. cum pertin. Ministro Cur. Dirigend. Et ei conceditur retornabile hic indilate. &c.

Et postea scilicet hoc eod. tertio die Julii Anno Dom. 1701. ven. hic in Cur. pred. W. P. in propr. person. sua & minister Cur. pred. certificat Cur' quod ipse virtute pre-
cept. predict. sibi inde direct. dicto tertio die Julii habere fecit prefat. W. P. plenar. seisinam de Tenement. pred. cum pertin. prout per precept. pred. sibi mandat' fuit cui quidem W. P. Dom. ad hanc Cur' Concessit etiam seisinam per Virgam de Tenelementis pred. Habend. & Tenend. Premissa pred. cum pertin. eidem W. P. Hered. & Assgn. suis imperpet. de Domino per Virgam ad voluntat. Domini secundum con-
suetudinem Maner. pred. per Ann. reddit. 9 s. 4 d. fidel. & Cur. & al' Servic. inde prius debit. & de Jure consuet. & pro ingressu suo inde dat Dom. de fine prout patet. &c. Et sec. fidel. Et Admissus est inde Tenens pro fine. 20 s.

Et postea ad eandem Cur. vener. pred. R. W. A. B. &
N. A. & remiser. relaxaver. & omnino pro se & Hered.
suis imperpetuum quiet. clam. pred. W. P. in sua plen. & pa-
cifica Possessione & seisina existen. totum jus Titul. clameum Interesse & Demand' sua quecumque que unquam habuerunt
habent seu quovis modo in futuro habere poterint de aut in
Tenementis pred. aut in aliqua inde parcel. ita quod nec
ipsi nec eorum aliquis nec Hered. alicuius eorum aliquid jus
Statim Titulum Clam. Interesse seu Demand'. de aut in Te-
nementis pred' aut in aliqua inde parte habeant nec habere
debeant in futur' sed ab omnium occasione Juris Titul' Clam.
usus

usus Interesse & Demand' inde pretend' fuerint exclusi & qui-
libet eorum sit exclusus imperpetuum per Presentes.

Et postea ad eandem Cur' ven. predict W. P. in propria Grant from
Persona sua & in plena & aperta Cur' sursumredd. per Vir- the Lord
gam in manus Domini Manerii pred' per manus Seneschal. to the De-
sui pred' secundum consuetudinem ejusdem Manerii omnia mandant
& singula Premissa predict cum pertin. Ad opus & usum of the Te-
pred. A. Hered. & Assign. suorum imperpet. Modo ad recovered,
hanc Cur' ven. predict. A. B. in propr' Persona sua & pet. for which a
admitti ad Tenementa predict'. Cui Dominus per Seneschal. Fine paid.
suum predict. concessit inde seisinam per Virgam Habend. &
Tenend. Tenementa predict. cum pertin. eidem A. B. Hered.
& Assign. suis in perpet. de Domino per Virgam ad vo-
luntat. Domini secundum consuetud. Manerii predict. per
Annual. reddit. 9 s. 4 d. fidel' sect. Cur' & al. Servic. inde
prius debit. & de Jure consuet. & pro ingr. suo inde dat
Domino de fine prout pat. &c. Et fec. fid. Et Admissa est
inde Tenens pro fine 20 s.

Et ulterius ad eandem Cur' ven. pred. A. B. in Propria A Release
Persona sua & in plena & aperta Cur' sursumredd. per on Record
Virgam in manus Domini Manerii predict' per manus Se- to the De-
neschal. sui pred. secundum Consuetudinem ejusdem Manerii mandant by the Te-
omnia & singula Tenement. pred. cum pertin. Ad opus & nant and
& usum R. B. de B. in Com. H. Gen. Hered. & Assign. suor. his Von-
imperpet. super quo ad eandem Cur' ven. pred. R. W. in chers of all
prop. Persona sua & pet. se admitti ad Tenementa pred. to the Pre-
cum pertin. Cui Dominus per Seneschall. suum pred. con- mises.
cessit inde seisinam per Virgam Habend. & Tenend. Tene- Other Ser-
menta predict. cum pertin. eidem R. W. Hered & Assign. tlement's made. The
suis imperpetuum de Domino per Virgam ad voluntat. Do- Estate by
mini secund. consuetudinem Manerii predict' per Annual. the De-
redd. 9 s. 4 d. fid. sectam Cur' & al' Servic. inde prius de- mandant
bit. & de Jure consuet. & pro ingressu suo inde dat Do- at er this
mino de fine prout pat. &c. Et fec. fidet. & Admissus est Recovery
inde Tenens.

*A Proclamation to be made for a Copyholder to come
into Court and be admitted.*

ET quia pred. D. B. non ven. ad hanc Cur. ad sursum
capiend. Tenementa pred. extra manus Domini Maner.
pred. Ideo ad hanc Cur. tres Proclamations facte fuer. primo
tempore quod. pred. D. B. veniret ad hanc cur' ad sursum
capiend. Tenementa pred. cum pertin. extra manus Dom. Ma-
ner. pred.

And so far three several Courts, prima tempore, secunda tempore, tertio tempore, if he do not come in and be admitted.

An Incroachmēnt.

Ad hanc Cur' presentat. est per Homagium pred. quod C. D. Incrochavit super vastum Domini Maner. pred. vocat. le Goose Green ideo in misericordia est prout pater super ejus caput.

Ad hanc Cur' venit T. L. & cognovit se libere tener. de Domino Maner. pred. unum Cottagium & Tres Acres terr. Arabil. cum pertin. que defoendebat eidem T. W. E. patri ejus (or que nuper perquisivit de O. R.) per fideli. test. Cur' & Annual. redd. 1 d. Et fecit fideli & solvit pro Arreragis redd. quatuor annorum 4 d. Et pro fine alienationis 1 d.

Ad hanc Cur. presentat. est per Homagium pred. quod A. B. citra ult. Cur. perquisivit de B. C. unum Cottagium, &c libere tent. de Domino Maner. pred. per fideli. test. Cur. & Annual. redd. 2 d. sed quia non venit ad hanc Cur. Ideo precept est Ballivo Maner. pred. quod distingat pred. A. B. quod sit ad prox' Cur. ad faciend. fideli.

The OATH of Fealty, that every Tenant ought to take, both Freeholder and Copyholder, and that as well for Black-acre as White-acre, although he had done Fealty for White-acre before'

YOU shall true Tenant be, and true Faith bear to the Lord of this Manor in respect of the Lands and Tenements you claim to hold of him. You shall from Time to Time pay such Rents, and perform such Services for the said Premisses as are due and of Right accustomed.

So help you God.

A Seizin of an Estate by the Lord after the third Proclamation, for the Heir's not coming in to take up the Land descended to him.

Maner. **C**ur ad Cur. Baron. Tent. pro Manerio pred.
de B. **C** 30 die Maii Anne Domini 1701. Presen-
tat fuit per Notarium ibidem quod A. B. Ar. unus Custo-
mar. Tenet. hujus Manerii mortuus fuit & obit seisi. de uno
Custosmar. Messuagio sive Tenemento omni pertin. scilicet.
jactu. & existent. in W. nuper in possession. C. B. Et quod A.
A. est eius Filius & heres & pleno etatis vix. etat 3. A. Manerum
& amplus sed quia non ven. admitti ad predict. Messuagium sive
Tenementum cum pertin. Ideo prima Proclam. tunc fuit af-
voca quod acondat ad Cur' ratione prem. ac alter seisi. forent
in manus Dom. pro defalt. Teneant. Cumque essent ad Cur'
hic tent. 3 die Octobris Anno Dom. 1701. Supradicto se-
cunda Proclam. facta fuit vers. prefat. R. A. in forma pred.
Ec. Cumque etiam ad aliam Cur. hic tent. 7 die Martii An-
no Dom. 1702. tertia Proclamatio facta fuit versus prefat. R.
A. quod veniret ad Cur' ill' ratione premissa pred. aut aliter
seisi. forent in manus Dom. pro defalt. Teneant. Et quia
pred. R. A. seu aliquis jus habens ad Premissa non ven. ad
predictam ultimam Cur. Ideo precept. fuit J. G. Ballivo hu-
jus Manerii & Ministro hujus Cur' in Messuag. sive Tenem.
pred. cum pertin. intrare & eadem seisi in manus Domin. per
defalt. Teneant. Modo ad hanc Cur. pred. J. G. reven. hic
in Cur. sedent. Cur. & dic. quod ipse intravit in Messuag.
pred. cum pertin. & premissa pred. seisisit in manus Domini
prout per precept. ill' sibi mandat. fuit Et mediate ven. hic in
Cur. S. J. Mil' & dedit Domino hujus Manerii intelligi &
informari quod pred. A. B. Ar' admittus fuit ad Premissa pred.
cum pertin. sub fiducia & pro solo usu ipsius S. J. super quo
Dom. hujus Manerii ex mero motu & special. gra. suis ex
petitione pred. S. J. dedit & concessit predicto S. J. pred. Mel-
suag. sive Tenement. cum pertin. Habend. & Tenend. sibi &
Hered. suis secundum consuetudinem hujus Maner. qui quidem
S. J. presens hic in Cur. pet. de Domino se admitti Teneant. ad
Messuagium pred. cum pertin. Cui Dom. per seneschal. suum
pred. concessit inde seisinam per Virgam Habend. & Tenend.
Messuagium pred. cum pertin. sibi & prefat. S. J. Hered. &
Assign. suis in perpet. de Domino ad volunt. Dom. secundum
consuetudinem ejusdem Manerii per Annual reddit. 1 d. fide-
litat. seistam Cur. & al' Servic. inde prius debit & de Jure con-
fucta. Et Admissus est inde Teneant.

If he is un-
der Age,
must be so
mentioned,
and the sei-
zure can on-
ly be quesi-
que, Ec.

An infant
can com-
mit no For-
feiture, but
the Lord
may chuse
a Guardian,
and admit
him and so
be paid his
Fine, and
not stay till
he comes
of Age.

A Presentment of the Death of a Freeholder.

AD hanc Cur. Homag. present. quod T. G. qui tenuit libere sibi & Hered. suis de Domino hujus Manerii un.acr.terr. cum pertin. in C. per reddit. per Annum 3 d. & al' Servitia obiit inde sefis. citra ultimam Cut' unde accidit Domino de Relevio 3 d. Et quod A. G. est filius unicus & heres predict. T. G. Ideo precep. est, &c.

Ad hanc Cur. Ven. A. G. in propria Persona sua. . Et fecit Domino fidelitat. pro una acra terre cum pertin. in C. in liber & communi locagio per reddit. per Ann. 3 d. & al. ser. vic. inde debit. & consuet. unde pater ejus T. G. nuper obiit sefis. prout presentat. fuit per Homagium ad Cur. Baron. Tent. pro Maner. pred. 20 die Marci 1702. Et dat Domino de Relevio 3 d. Et Admissus est inde Tenens.

THE

THE
COURT
O F
Piepowders.

The Definition of it; what it is, and why it was Instituted; together with its Jurisdiction.

THE Word *Piepowder*, hath its Definition from the French Words *Pied*, i. *pis*, and *Pulvareuz*, i. *pulverulentus*; or as *Skene de verb. significat. Pede pulverosus*, Dusty Feet, a Vagabond, Pedlar, or *Scatch Merchant*, who hath no certain Dwelling-Place, and by whom Fairs are usually kept, to whom Justice should be summarily ministred within the Flowings and Ebbings of the Sea; or as some define it to be, *Caria parvi ponderis*, and this is to be *pedis pulverizati*; and so the Lord Chief Justice *Anderson* did use to define it, for the Speed and Celerity there used, in the present Dispatch of Business.

This Court of *Piepowders* is a Court of Record, instituted and set up for the speedy and sudden Dispatch of Matters and Differences arising in a Fair or Market, and for the speedy doing of Justice; and in this Case of Necessity, for the sole Benefit of Tradesmen and Merchants, and for the present Determination of all Doubts and Questions there then arising; and that only upon Sales and Contracts had in the Fair and Market, during the Time thereof, but not for Matters acted and done before, or at any Time after the Fair or Market held; but for Matters happening and arising *in pleno Mercato*, or *in plena feria*. 8 H. 7. fol. 4. b.

*The Definition of
Piepowder.*

This 8 H. 7. f. 4. b.

Piepowder-Courts.

This Court is of two Kinds, viz.

1. Either by Prescription; and this is an absolute Jurisdiction.
2. To be in a Fair and Market; and to this a Court of Piepowders is incident.

And here two Things are requisite, viz.

1. This Court is to be for Matters arising in the Fair or Market.
2. The Matter to be determined there, within, and during the Continuance of the Fair and Market; and this appears to be so by the Stat. of 17 E. 4. cap. 2. and 1 R. 3. cap. 6. and this is in a Court of Piepowders annexed unto a Fair or Market: But in a Court of Piepowders which one hath by Prescription, there they may hear and determine Matters done before. *Bulst. 2. Part. fol. 21. Goodson against Duffil. Cro. first Part, fol. 33.*

*Stat. 17. E.
4. c. 2. and
1 R. 3. c. 6.*

*Bulst. 2.
Part. f. 21.
Cro. 1. Part.
fol. 33.
Prescription.*

*13 E. 4. fol.
2. b.*

*Hill. 33.
Eliz. Rot.
224.*

For in case of Prescription such a Court may well be without a Fair, from Time to Time, and from Day to Day, 13 E. 4. fol. 8. b. it was so adjudged in Point of a Writ of Error, where the Error assigned to reverse a Judgment given *in causa predi puterizati*, there alledged to be held *secundum consuetudinem ejusdem civitatis*; the Error insisted upon was, because he shewed not that the Matter upon which the Action was brought, was *in pleno Mercato*, or *in plena Feria*, it is there expressly adjudged, That this was no Error, because the same was said to be held *secundum consuetudinem civitatis*; so that such a Court may be held without a Fair or Market, and the King may well grant such a Court to be held from Day to Day. And such a Court may well be held by Custom without any Fair or Market, and its proper Denomination is from the speedy Dispatch of Business there; so that the Jurisdiction of this Court held by Prescription, may be extended unto all Contracts and Bonds, to Actions of Trespass, and Actions on the Case; and to this Purpose was the Case between Chambers Plaintiff, against Peri Defendant. Hill. 33 Eliz. Rot. 124. where an Action of Trespass for an Assault and Battery was brought in a Court of Piepowders, for an Assault done long before; and well maintainable, as it was held.

But this Court held by Prescription doth much differ from the ordinary Court of Piepowders, and that by many Circumstances: This may be thus used and held, viz.

1. Either by way of Grant.
2. By way of Confirmation.

And

And being thus held, it differs from the ordinary Court of Pypowders Piepowders, which is incident to every Fair, as appeareth by 12 H. 7. fol. 16. b. and 13 H. 7. fol. 19. And the same Court is thus incident to a Fair and that of Common Right, as appears. 13 E. 4. fol. 8. b. Old Book of Entries, fol. 168. Tit. *Detz en Gai-*
lor placito, 1. fol. 18. Fitz. *Account of Execution*, placito 3. If one will declare upon a Matter in this Court in a Fair, there in such a Case of Necessity he ought to set forth in pleading, that the same was done in *plena Feria*, or in *pleno Mercato*, otherwise not good. But it is not so in Case where a Man hath, and holdeth this Court by Prescription, in which Court they may hear and determine Actions upon the Case for Words, but not so in an ordinary Court held during the Time of the Fair: And by 6 E. 4. fol. 3. b. If a Man in his Fair hath this Court, here the Steward is Judge and no other, for there are no Suitors; and for a Judgment given in this Court a Writ of Faux Judgment lieth not, but a Writ of Error; and with this agrees 7 E. 4. fol. 23. And where one claims to hold this Court by Prescription, and also by Charter; if the Charter be not contrary to the Prescription, this shall be good by way of Confirmation.

As a Court-Baron is incident to a Manor, so a Court of Pie-powders is incident to a Fair, and by Grant of the Fair this doth pass, and with this accords 19 H. 8. *Brook's Case*, fol. 2. to a Fair or placito 7. and *Brook. Tit. incidents*, placito, 34. and not to be severed from them, neither by Grant nor by Reservation, 2 & 3 Ph. & Mar. Dyer fol. 133. pl. 80. *Error sur Judgment in Court de Piepowders port*, le Plaintiff assigned for Errors, que defendant ne fuit amercy, allowed pur Error, car comment soit pur advantage le defendant, uncouer concern le Roy & son profit, judgment fuit sur contract fait in le Faire deugnt, & null plaint doneques entred, resolved, que ambideux fuerent errors. Jenkin, fol. 211. cent. 5. casus 48. The Plaintiff in a Court of Piepowders doth count of a Contract made in the Fair before, where no Plaintiff was then begun, nor any Judgment of Americiament of the Defendant then given, and this was held a good Error in both by all the Justices of both Benches. Mich. 42 & 53 Eliz. B. R. C. 10. fol. 73. in the Case of the Marshalsea, where Hall brought a Writ of Error against Jones, to reverse a Judgment given against him in the Court of Piepowders of the Market in the City of Gloucester; for that Hall had published slanderous Words of him, (viz.) Mr. Jones and his Clerk have by Colour of his Office, extorted and gotten 300 l. per annum by unlawful Means, for many Years together, above their ordinary Fees, for proving of Testaments and granting of Administrations, the which Judgment was reversed for two Errors, viz.

1. Because Words did not concern any Matter touching the Market, and therefore the Court had no jurisdiction of it; but if

if one slander any who trades, and merchandizes in the Market, in any thing which concerns his Trade, there an Action for this well lieth.

2. It appears in the Count, that the Words were spoken before the Market, and not during the Time of the Market: For as this Court hath no Jurisdiction but in Matters concerning the Market, so the same Court hath no Jurisdiction for Matters concerning the Market, unless they were acted and done during the Time of the Market. *Bract. lib. 5. fol. 335. a. De brevi de recto. I. diversitate, divisione summonitionis,* it is there said, *per quindecim dies, ante diem quo comparare debet summonitio* ought to be, *Et talis summonitio dici debet legitima. Si minus spatium contineat, possit illegitima judicari; nisi ob causam legitimam minus tempus statuatur, ut propter personas, qui celerem habere debent justitiam, sicut sunt Mercatores, quibus exhibetur justitia Pepoudrouis,* by the Statute of 17 E. 4. cap. 2.

*Bract. l5. f.
335. De
breui de
recto. I.
17 E. 4. c. 2.*

No Plea shall be holden in this Court, unless the Plaintiff or his Attorney do swear that the Contract was made during the Time of the Fair. And in this Court no Steward, or other Minister, shall hold Plea upon an Action, at the Suit of any Person unless the Plaintiff or his Attorney, in the Presence of the Defendant, do swear that the Contract in the Declaration, &c. was had and made, during the Time of the Fair, and within the Jurisdiction of the Fair; but this Oath (so taken) shall not conclude the Defendant for pleading in Abatement of the Action, and to the Jurisdiction of the Court; this by the Statute of 1 R. 3. c. 6. is made perpetual: In this principal Case the Defendant in the Court at Rochester, was condemned in an Action of Debt for 300*l.* upon a Bond and Contract formerly made, and entered into; and for this Cause the Judgment was erroneous.

*Stat. 1 R. 3.
c. 6.
Note.*

Note. That in this Court the Steward is Judge, because there are no Suitors there, neither can the Steward delegate a Deputy. 6 E. 4. f. 4. 7 E. 3. f. 23. The Trial is by Merchants and Traders in the Fair, and the Judgment against the Defendant shall be *quod americtur.* 17 E. 4. c. 2. 1 R. 3. c. 6. 6 E. 4. 8. 13 E. 4. 8.

Di-

Divers Resolutions
 Of the Court of
 King's-Bench,
 CONCERNING
 Inferior Courts,
 For keeping of them within their
 JUST BOUNDS.

Lond. ff. Carew Pearse querit. de Thom. Cox & Jo-
 hanne Boys in Cufiod. Mar. &c. De
 eo quod ipsi decimo nono die Jan. Anno
 Regni Domini Caroli secundi nunc Re-
 gis Anglie, &c. xxiv. vi & armis, &c.
 in ipsum Carew apud London. predict. videlicet in Parochia
 Beate Mar. de Arcubus in Warda de Cheap insult. fecerunt
 & ipsum Carew adtunc & ibidem verberaver' vulneraver'. &
 male tractaver' cepер. arrestaver' & imprisonaver. & ipsum
 in prisona ibidem per spatiun sex dierum ex tunc prox' se-
 quen. absque aliqua causa rationabili contra voluntatem ipsius
 Carew & contra leges & consuetud. hujus Regni Anglie custodi-

ver' & detinuer' & alia enormia eidem Carew adtunc & ibidem intulerunt contra pacem dicti Domini Regis nunc & ad dampnum ipsius Carew ducentarum librar. & inde producit scostam, &c.

Plea.

Et predict' Thomas Cox. per J. S. Attorn' suum & predict' Johannes Boyse per R. A. Attorn' suum veniunt & defendant viiiij. In injuriam quando, &c. Et quoad venire Vi & armis seu quicquid quod est contra pacem dicti Domini Regis nunc ne non vulnerationem predict'. superius fieri suppositam idem Johannes & Thomas dicunt quod ipsi non sunt inde culpabiles & de hoc ponunt se super patriam. Et predict'. Carew Pearse similiter, &c. Et quoad residuum transgression' predict' superius fieri supposit' idem Johannes & Thomas dicit quod predict' G. P. & Non em suum predict' inde verius eos habere seu manutenere non debet quia dicunt quod Civitas London' est antiqua Civitas qua quidem Civitate scilicet apud Paroch' & Wardam predict' infra eandem Ci- tatem est & a tempore cuius contraria memoria hominum non existit fuit talis consuetudo usitata & approbata videlicet quod si aliquis Civis vel forinsecus indebitatus sit aliqui Civis & liber homo ejusdem Civitatis in aliqua summa decipiorum super computo infra huc extra libertates ejusdem Civitat. emergent' sive surgen' & Civis ille affirmaverit ver- fusi personam sic indebitatam actionem sive querel' suam debiti in aliqua Curia de recordo Domini Regis vel Pro- genitor' suor' infra Civitat' predict' super qua retornat' fuc- rit per Servien' ad Clavam ac ministr' talis Curie pro tem- pore existen' ore tenus quod talis persona sic indebitat' ni- ill haberit infra libertatem Civitatis predict' per quod sum- moniri poterit nec fuerit invent' in eadem Ac si superinde testatum fuerit Cur' in qua talis actio sive querela affirmata existit ex parte talis querentis in tali actione sive querela quod aliqua alia person' infra eandem Civitat' inventa indebitata sit tali persone defend' in aliqua denarior, summa ad summ' debiti in ead. actione sive querela specificat' aut aliquam par- cell' inde attingen' quod tunc talis defend' ad petition' ta- lis querel' vel ejus Attorn' attachiat' foret per hujusmodi debit' sic in manibus talis alias persone existen' essendi ad prox' Cur' dicti Domini Regis in Guildalda Civitat' predict' coram altero Vicecom' Civitat' predict' coram quo hujusmodi actio sive querela affirmari contigerit ex' tenend' ad respon- dend' tali querenti de & in placito in tali querela sive actione sua & tunc si idem serviens ad clavam ad coriam illam testi- ficaverit quod talis defend' per summam illam attachiatur ad respondend' tali querenti de placito in hujusmodi defend' actione sive querela specificat' hujusmodi defend' ad Cur' ill' & tres alias Cur' ibidem separatis prox' extine tenend' vi- delicit

delicet ad quatuor hujusmodi Curias solemniter exactus non ven' sed defalt' fecerit in eadem actione sive querela ac quod quatuor defalt' super talē Defend. ad quatuor Curias ill' in Guilhal'd' Civitas predict' in placito talis querela sive actione recordat' forent post tale attachiamēt' super talē defend' fact' Et tunc si talis pars querens in propria persona sua vel per Attorn' suum ad illa' Cur' sive ad aliquam aliam Curiam dicti Domini Regis coram aliquo Vic' ejusdem Civitat' in Guilhalda ejusdem Civitat' coram quo hujusmodi actio sive querela affirmat' fuerit postea tentam juraverit hujusmodi summam per eum petitam fore verum debitum suum. Et quod talis defend' eidem querents debitum illud detinet tunc dictus querens a toto tempore cujus contrarii memoria homin' non existit per judicium Curie illius haberet & habere consuevit execution hujusmodi debiti per talē aliam personam tali defend' debit' & sic in manibus hujusmodi aliis persone attachiat' vel tantum inde quantum attingit ad debitum per talē aliam personam in tali billa actione sive querela petitam secund' antiquam & laudabilem consuetudinem dictae Civitat' London' per duos plegios ad minus inde inveniend' si pars defendens venerit infra unum annum & unum diem extunc prox' sequent. & disratiōnāverit debitum predic' in tali querela sive actione content' & quod post hujusmodi securitat' inventam & execution' hujusmodi debiti in manibus & custodia hujusmodi aliis persone attachiat' & detent' habit' idem defendens exoneraretur de eodem debito versus talē querent' in tali actione sive querela nominat' vel tanc' inde quant' attingit ad dictum debit' sic attachiat' & quod talis alia persona in cuius manibus aliqua talis summa sic attachiat' fuit similiter exoneretur de tantā summa debiti sui versus talē defend' quanta summa sic attachiat' & unde executio habita fuit attingit tamdiu quam hujusmodi. Judicium & executio in suo robore permaneant & eff. tū per talē defendant' vel tales defendantes minime re erit'. As si aliqua persona sic indebitata post attachiamēt' debiti sui ab altero sibi debit' secundum consuetudinem predict' fact' non fecerit quatuor defalt. sed in Curia in qua actio sive querela affirmari contigerit ad diem return' attachiamēti illius sive ad aliquam trium Curiar' illar' prox' sequent. in exoneratio nē talis attachiamēti comperuit & manucaptōres in ea dem Curia invenerit qui pro tali persona sic indebitat' in tali placito sive querela manucapt' quod talis persona sic indebitat staret rectus in Curia illa in qua talis actio sive querela affirmari contingit super tali placito & querela & defalt. ad nullum diem inde sibi dat. faceret usq; ad finem talis placiti ad quod si contingat quod Judicium versus talē personam defendant' reddit' foret super tale placit' sive querelam quod tunc talis persona versus quam Judicium illud redditum foret

solveret debita dampna & custagia in tali casu adjudicat' sive aliter corpus suum in custodia' Custodis prisone talis Cur' redderet vel in defalt' inde quod tales manucaptores & quilibet eorum incurrerent penam executionis pro debitibus misis & custag' sic adjudicat' versus ipsos de corporibus suis habend' & fiend' & quod si tali casu Judicium reddit' sit versus talem personam sic indebitat' ac talis persona non solveret debita dampna misas & custag' sic adjudicat nec reddat se in custodiā Custodis prisone talis Cur' in exoneracione manucaptor' suor' quod tunc & in tali casu executio pro debitibus dampnis misis & custag' sic adjudicat' fiet versus tales manucaptore sive aliquem eorum de corporib' terris sive cattallis suis infra libertatem ejusdem Civitatis existentibus que quidem consuetudines & omnes alie consuetudines Civitat' illius authoritate Parliamenti Domini Richardi nuper Regis Anglie post Conquestum secundi apud Westmonasterium in Com' Middlesex anno Regni sui septimo tent' tunc Majori & Communitat' dict' Civitat' & successorib' suis ratificat' fuerunt, Et predict' Thomas Cox & Johannes Boyse ulterius dicunt quod ante pred' tempus quo supponitur transgressionem predict fieri scilicet vicesimo sexto die Decemb' anno Regni dicti Domini Regis nunc vicesimo tertio ad Parochiam & Wardam predict' quidam Franciscus St Aubyn indebitat' suit prefat' Thom' Cox in quinquagint' libris legalis monete Arglie super quodam computo inter eos ante tempus illud fact' Quibus quidem quinquagint' libris insolutis existen' predict' Thomas Cox postea & ante predict' tempus quo supponitur transgression' predict' fieri scilicet predict' vicesimo sexto die Decembbris Anno Regni Domini Regis nunc vicesimo tertio venit in propria persona sua in Cur' dicti Domini Regis tunc tent' coram Jonathan Dawes milit' tunc uno Vicecom' Civitat' predict' in computatorio suo situat' in Parochia Sancti Michaelis in Woodstreet in Warda de Cripplegate London' secundum consuetudinem per totum tempus predict' infra eandem Civitat' usitat' & adtunc & ibidem secundum consuetudinem predict' affirmavit quandam querelam suam versus quendam Franciscum St. Aubyn in placito debiti super demand' predict' quinquagint librar' & superinde predict. Thomas Cox adtunc & ibidem in eadem Curia Civitat' predict' secundum consuetudinem ejusdem Civitat' a tempore cuius contrar' memoria hominum non existit usitat' & approbat' invenit plegios de prosequend' querelam suam predict' videlicet Johannem Denn & Richardum Penn & superinde predict' Thomas Cox adtunc & ibid' petiit processum sibi fieri in & super querelam suam pred. versus prefat' Franciscum St. Aubyn secundum consuetudinem Civitatis predict' a toto tempore supradict' usitat' & approbat' super quo adtunc & ibidem secundum consuetudinem Ci-

Civitat. predict. a toto tempore supradict' usitat. & approbat. ad petitionem predi&t' Thom' Cox preceptum fuit per prefat. Jonathan Dawes adtunc unum Vic' Civitatis predict' in eadem Cur. predict' cuidam Thom' Twelves adtunc uni servientium ad clavam ejusdem Vicecom' ac ministr. Cur. illius quod ipse secundum consuetudinem Civitat. predicte toto tempore supradicto usitat' & approbat' summone-ret prefat. Franciscum St. Aubyn essend. ad prox' Cur. dicti Domini Regis nunc coram prefat. Jonathan Dawes adtunc uno Vic. Civitat. predict. in Guilhald. Civitat. predict. sci-tuat. in Parochia Sancti Michaelis in Woodstreet in Warda de Ciplegat London. dicto viceffimo sexto die Decembri anno viceffimo supradicto tenend. ad respondend. prefat' Thome Cox in placito querele sue predi&t' secundum consuetudinem Civitat' predict. a toto tempore supradic. usitat' & approbat. Ad quam quid' prox. Cur. dicti Domini Regis nunc coram prefat. Jonathan Dawes uno Vicecom. Ci-vitat. predict. in predict. Computatorio suo supradict. viceffimo sexto die Decembri anno viceffimo tertio supradict. secundum consuetudinem Civitat. pred. a toto tempore supradicto usitat. & approbat. tent. predict' Thomas Twelves adtunc unus servien. ad clavam ac minister Cur. predict. retornavit & certificavit eidem Cur. quod predict. Franciscus St. Aubyn nihil habuit infra libertat. Civitatis predict. per quod aut' ubi summoneri poterit secundum consuetudinem Civitatis predict. nec fuit invent. infra libertatem Civitatis predict. super quo postea scilicet adtunc scilicet ad istam eandem Cur' dicti Domini Regis nunc coram prefat. Jonathan Dawes uno vicecomitum Civitat. predict. in computato-rio suo predict. secundum consuetudinem Civitatis predict. predict. Thomas Cox testificavit & certificavit eidem Cur. coram prefat. Jonathan Dawes uno Vicecom. Civitat. pre-dict. quod quidam Edwardus Nele adtunc indebitat. fuit prefat. Francisco St. Aubyn in vigint. & quinque libris legalis monete Anglie ut de vero & justo debito & ean-dem denariorum summam in pecuniis numeratam adtunc habuit in manibus & custod. ipsius Edwardi Nele infra li-bertat. ejusdem Civitat. & adtunc & ibidem petiti ab ea-dem Cur. quod predict. Francisc. St. Aubyn per predict. vi-ginti & quinque libr. in manibus & custodia predict. Ed-wardi Nele existen' secund: consuetudin. Civitat. predict. a toto tempore supradicto usitat. & approbat. atrachia-ret. ad respondend. prefat. Thomæ Cox in placito querele sue predi&t. Ideo ad petition' predict. Thomæ Cox. adtunc & ibidem ad istam eand. Cur. Dicti Domini Regis nunc coram prefat. Jonathan Dawes uno Vic. Civitat. predict. in predict. computat. suo predict. viceffimo sexto die Decem-bris anno viceffimo tertio supradicto secundum consuetudi-nem Civitat. predict. tent. precept. fuit per prefat. Jona-

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than Dawes unum vic. Civitat. predict. prefat. Johanni Boyse uni servien. ad clavam ejusdem vie. ac ministr. Cur. predict. quod ipse secundum consuetudinem Civitat. predict. a toto tempore supradicto usitat. & approbat. attachiaret predict. Francisc. St. Aubyn per predict. viginti & quinque libras in pecuniis numeratis in manibus. & custod. prefat. Edwardi Nele existen. & eadem viginti & quinque libras in manibus & custod. iphus Edwardi Nele secund. consuetudinem Civitat. predict. a toto tempore supradicto usitat. & approbat. defenderet ita quod predict. Franciscus St. Aubyn esset ad prox. Cur. dicti Domini Regis nunc coram prefat. Jonathan Dawes uno vic. Civitat. predict. in Guis-halda Civitat. predict. secundum consuetudinem Civitat. predict. a toto tempore supradicto tenend. ad respondend. prefat. Thome Cox in placito querelle sue predict. secundum consuetudinem Civitat. predict. a toto tempore supradicto usitat. & approbat. Ante quam quidem prox. Cur. scilicet ad eandem Cur. Domini Regis Civitat. predict. coram prefat. Jonathan Dawes tunc uno Vicecom. Civitat. predict. apud. Guis-hald. predict. ut prefert. tent. predict. Franciscus secundum consuetudinem predict. in ea-dem Cur. super attachiament predict. modo & forma pre-dict. servit. & execut in exoneratione predict. viginti & quin-que librar. modo & forma predict. attachiat. compe-ruit & in custod. predic. Jonathan Dawes custodis prison. Cur. ill' captus fuit & super inde in istam eandem Cur. predict. Franciscus St. Aubyn secundum consuetudinem pre-dict. in placito & querela predict. manu captiores in eadem Cur. invenit scilicet Johannem Tremain Gen. predict. Carew Pearse & Ben. Woodnot qui pro seipfis in eadem Cur. secundum consuetudinem predict. manu ceperunt quod pre-dict. Franciscus St. Aubyn staret rectus in Cur. illa super pla-cito & querela predict. & defalt ad nullum diem inde fa-ceret nec se retraheret usque ad finem placiti predict. ac si contingeret quod Judicium superinde versus predict. Franci-cum redditum foret quod predict. Franciscus solveret debitum dampna misas & custag. versus ipsum adjudicat. seu aliter corpus suum in custod. custodis prison. Cur. ill redderet vel super defalt. inde ipsi predict. Johann. Tremain Carew Pearse & Benjaminus Woodnot incurrerent & quilibet eorum in-curriter penam execution' pro debit. dampnis misis & cu-stag. sic versus predict. Franciscum adjudicat. versus iplos de corporib. suis habend. & fiend. Et superinde ipse pre-dict. Francisc. in eadem Cur. in placito & querela pred. ponit loco suo Longworth Crosse Attorn. suum pro ipso pre-dict. Francisco secund. consuetudinem Civitat. predict. & ad-tunc & ibidem per eam lem. Cur. traditur in ballum per

manucaptiores predict. Et iidem Thomas Cox & Johannes Boyse ulterius dicunt quod postea scilicet ad Cur. dicti Domini Regis nunc coram prefat. Vicecom. decimo septimo die Januarii anno sopradicto apud Guilhald. ejusdem Civitatis. tent. usque quam quidem Cur. continuat. fuer. processus inter ipsum predict. Franciscum & predict. Thom. Cox in querela & placito predict. per Attornat. suos predict. talit. processum fuit quod adtunc & ibidem considerat. fuit per eandem Cur. secundum consuetudinem Civitat. predict. quod idem Thomas Cox recuperaret versus predict. Franciscum St. Aubyn predict. debit. quinquagint. librari. necnon octo solid. & sex denar. pro missis & custag. que sustin. tam occasion' detentionis debiti ill. quam pro missis & custagiis suis per ipsum circa sectam suam in ea parte expositis per eandem Cur. adjudicat. Et predict. Thomas Cox & Johannes Boyse ulterius dicunt quod predict. Franciscus debit & dampna predict. prefat Tom. Cox nondum satisfecit sed se ab executione Judicij predict. retraxit & corpus suum in custodia custodis prison. Cur. predict. non reddidit & superinde secundum consuetudinem Civitat. predict. a toto tempore cuius contrar. memoria hominum non existit postea scilicet decimo octavo die Januarii Anno Regni dicti Domini Regis nunc vicefimo tertio apud London. predict. in Parochia Sancti Michaelis in Woodstreet predict. precept fuit per Cur. dicti Domini Regis computator. predict. secundum consuetudinem predict. Civitat. adtunc & ibidem coram Vicecom. predict. tent. eidem Johanni Boyse tunc & adhuc uni servient. ad clavam predict. Vicecom. & ministr. Cur. predict. quod caperet. predict. Carew Pearse si inventus foret infra libertat. Civitat. predict. & eum salvo custodiret ita quod habere potuisset corpus ejus ad prox' Cur. dicti Domini Regis coram Vicecom. predict. secundum consuetudinem predict. vicefimo octavo die Januarii predict. tenend. ad satisfaciend. prefat. Thom. Cox de debit. & dampn. predict. virtute cuius quidem precept. postea scilicet dicto tempore quo, &c. idem Johannes Boyse tunc unus servien' ad Clavam prefat. Vicecom. & ministr. Cur. predict. existen. ac predict. Thom. Cox in assistentia ejusdem Johannis Boyse ac ad monstrand. predict. Carew Pearse predict. Johanni qui adtunc ipsum non cognoscebat ipsum Carew Pearse apud London. in Parochia & Warda predict. ac infra libertatem Civitat. predict. & Jurisdiction. Cur. predict. in narratione predict. mentionat. per corpus suum ceperunt & arrestaver. & in prisiona Computatorii prefat. Vic. deliberaver. prout eis bene licuit & ipse idem Carew in Prisiona ibidem per spatiu. sex dierum ex causa predict. detent. fuit que quidem captio & arrestatio & in Prisiona ipsius Carew in forma predict.

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& ex causa predict. fact. sunt idem resid. transgr. predict. unde pred. Carew superius se modo querirut. Et hoc parat. sunt verificare unde petunt Judicium si predict. Carew actionem suam predict. inde versus eos habere seu manutenere debeat, &c.

Replica-
tion.

Et predict. Carew Pearse dic. quod ipse per aliqua per prefat. Thom. Cox & Johannem Boyse superius placitaudo allegat. ab actione sua predict. inde versus eos habend. precludi non debet quia dicit quod bene & verum est quod predict. Thomas Cox predict. vicesimo sexto die Decembris Anno Regni dicti Domini Regis nunc vice. simo tertio supradicto in predict. Cur. dicti Domini Regis nunc tent. coram prefat. Jonathan Dawes Mil tunc uno Vic. Civit. predict. in Computatorio suo scituat in Parochia Sancti Michaelis in Woodstreet in Warda de Cripplegate London. affirmavit querelam suam predict. versus predict. Franciscum St. Aubyn in placito debiti super demand. quinquagint. librar. quodque ad predict. Cur. dicti Domini Regis Civitat. predict. coram prefat. Jonathan Dawes tunc uno Vicecom. Civitat. predict. ad Guilhald. predict. Franciscus St. Aubyn in eadem Cur. super attachiament. predict. modo & forma predict. servit. & execut. in exoneratione predict. Viginti & quinque librar. modo & forma predict. attachiat compertuit & in Custodia predict. Jonathan Dawes Custod. Prisone Cur. illius captus fuit & superinde in eadem Cur. ipse predict. Franciscus St. Aubyn in predict. placito & querela predict. manucaptiores in eadem Cur. invenit scilicet predict. Johannem Tremain Carew Pearse & Benjaminum Woodnot & superinde predict. Franciscus St. Aubyn in eadem Cur. ad tunc & ibidem per eandem Cur. tradebatur in ballium per manucaptiores predict. prout predict. Thom. Cox & Johannes Boyse superius placitando allegaver. sed idem Carew Pearse ulterius dic. quod post affirmationem querele predict. & comparentiam ipsius Francisci St. Aubyn necnon post traditionem in ballium per manucaptiores in Cur. predict. coram prefat. Jonathan Dawes uno Vicecom. Civitat. predict. tent. scilicet duodecimo die Januarii Anno Regni dicti Domini Regis nunc vicesimo tertio supradicto in eadem Cur. coram predict. Jonathan Dawes uno Vicecom. Civitat. predict. in Guilhald. Civitat. predict. idem Thom. Cox super querelam suam predict. narravit versus eundem Franciscum St. Aubyn de eo quod predict. Francisc. vicesimo quinto die Decembris Anno Regni dicti Domini Regis nunc vicesimo tertio supradicto in Parochia Sancte Hellene pro diversis genariorum summis per ipsum Franciscum eidem Thome Cox prius debit. concessit solvere prefat. Thome predict. quinquagint libras cum ipse requirit. fuisse predict. tamen Fran-

Franciscus licet sepius requisit, &c. predict. quinquaginta. libras aut aliquem inde denar. prefat. Thome nondum solvisset sed ill' ei solvere usque tunc contradixisset & adtunc contradixit ad dampnum ipsius Thome vigint. librar. & inde tunc produxit sextam, &c ubi revera & de facto causa Action. ill' in querela & narratione predict. mentionat. emerget & accrebit eidem Thome Cox extra predict. Civitatem. London. & extra jurisdictionem Cur. illius videlicet apud Parochiam Sancti Clemen. Dacor. in Com. Middlesex. & non infra predict. Civitatem. London. & Jurisdiction. Cur. illius ac ubi revera idem Franciscus nichil tenuit de eodem Vicecom. nec infra Franches. nec Jurisdiction. Cur. ill. ac ubi revera idem Jonathan D. Judex Cur. predict nullam habuit potestatem tenendi placitum predict. nec audiend. & determinand. causam predict. sic extra Jurisdiction. Cur. predict. emergen. & accrescen. per legem terre hujus Regni Anglie nec per Litteras Paten. Domini Regis nunc nec alicuius Progenitorum suorum nuper Regum vel Reginorum Anglie nec per aliquam legitim. prescription. de tempore cuius contrar. memor. homin. non existit usitat. & approbat. Et predict. Carew Pearse ulterius dicit quod ipse idem Francisc. St. Aubyn in eadem Cur. eodem duodecimo die Januarii anno vicesimo tertio supradicto absque aliqua licentia interloquendi in propria persona sua veniebat & placitabat ad Jurisdiction. Cur. predict. quod causa actionis predict. accrebit eidem Thome Cox extra Jurisdictionem ejusdem Cur. videlicet apud Parochiam Sancti Clementis Dacorum in Com. Middlesex. extra Jurisdictionem ejusdem Cur. & traversabat quod causa actionis predict. accrebit eidem Thom. Cox infra jurisdictionem ejusdem Cur. Er hoc adtunc & ibidem paratus fuit verificare unde idem Franciscus petuit judicium si eadem Cur. ibidem placitum predict. ulterius cognoscere voluisse aut debuisse Et idem Franciscus adtunc & ibidem in eadem Cur. in propria persona sua obtulit ad veritat. placiti sui predict. super corporale Sacramentum sum in eadem Cur. super sacrosanct. Dei Evangel. prestand. affirmand. & proferend idem tamen Jonathan Dawes mil. unus Vic. Civitatem. predict. ejusque deputat. Judex Cur. illius placitum predict. & allegation. illam admittere seu recipere penitus recusavit & Judicium in eadem Cur. versus Franciscum St. Aubyn pro eodem Thoma in Actione predict. adtunc & ibidem de facto reddit & intrari causavit per defact. quasi predict. Franciscus nichil in contrarium inde dixisset seu placitasset. Et superinde postea scilicet predict. decimo nono die Januarii Anno vicesimo tertio supradicto apud London. predict. in Parochia & Warda predict. idem Carew Pearse per predict. Johannem Boyse & Thom. Cox capt. & arrestat. fuit &

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in prisoна in executione pro debito & dampeis predict. detent. fuit de injuria ipsius Johannis Boyse propria sub colore processus extra eandem Cur. emanat. ex causa predict. prout idem Carew superius se modo queritur ubi re vera totus processus in eadem Curia post recusation. placiti predict penitus vacuuus fuit & coram non Judge. Et hoc parat. est verificare unde pet. Judicium & dampna sua occasione transgressionis predict. sibi adjudicari, &c.

Dawes Vicecomes.

Inter Thom. Cox quer. & Franciscum St. Aubyn Defend. in placito debiti.

Et predic. Franciscus St. Aubyn in propria persona sua venit & dicit quod Curia Domini Regis nunc hic cognitione placiti predict. habere non debet Quia dicit quod causa Actionis predict. accrevit eidem Thom. Cox extra Jurisdiction. hujus Curie scilicet apud Parochia Sancti Clementis Dacorum in Comitatu Midd. Absque hoc quod causa Actionis predict. accrevit eidem Thome Cox infra Jurisdiction. hujus Curie prou: per narratione predict. superius supponitur. Et hoc paratus est verificare unde petit Judicium Si Curia Domini Regis hic placitum predict. ulterius cognoscere velit aut debeat, &c.

Cest Plea fuit plead al. Action. sur concessit solvere in le Court del Vicount in London. & tender sur serement devant Imparlement quel plea fuit disallow pur le Judge del dit Court & Judgment entra pur le Plaintiff per default & puis le Defend. move le Court del Bank le Roy pur Prohibition. Et a luy fuit grant ; le Suggestion ensue.

Anz.

Coke 2 Inst. f. 229.
Reg. Orig. 98.

MEmorandum quod die Martis proxime post Octabas Sancti Hillarii isto eodem Termino coram Dom. Rege apud Westmonasterium venit Franciscus St. Aubyn in propria persona sua & dat Curie Domini Regis hic intelligi & informari quod cum per Statut. in Parlamento Domini Edwardi primi nuper Regis Anglie apud Westm. in Comitatu Midd. vicesimo quinto die Aprilis anno Regni sui tertio tent. edit. (inter alia) inactitat. & statibilit. existit Autho:itate ejusdem Parlamenti de Magnatis & eorum Ballivis & allis (except. Ministris Regis quibus ad hoc faciend. specialis Authoritas data foret) qui querimoniam aliquorum vel Authoritate sua propria attachiarunt alios cum bonis suis per eorum libertat: transeuntes ad respondend. coram eis de contractibus conventionibus vel transgressiōibus extra eorum potestat. & Jurisdiction. factis

fact. ubi nihil tenuerunt de eis nec infra Franchesias ubi e-
 orum potestas foret in prejudicium Domini Regis & Coro-
 ne sue & ad dampnum populi provisum sit quod nullus
 deinceps ita faceret Et si aliquis ita faceret redderet ei qui
 ea occasione attachiat. foret dampna sua duplicata & esset
 in gravi Misericordia Domini Regis prout per Statut. pre-
 dict. (inter alia) plenius liquet & appetat Quidam tamen
 Thom. Cox premissorum non ignarus sed machinans &
 intendens ipsum Franciscum St. Aubyn contra formam Statuti
 predict. minus rite & indebit. pregravare opprimere &
 defatigare in Curia dicti Domini Regis nunc de Recordo
 tenta coram Jonathan Dawes Milite Aldermano uno Vice-
 comit. Civitat. London. in Computatorio suo scituat. in
 Parochia Sancti Michaelis in Woodstreet in Warda de Crip-
 plegate trahereque extra Jurisdictionem ejusdem Curie emer-
 gebat & accrebat Necnon legi Communi hujus Regni An-
 glie cuiilibet subdito de Jure debite derogare & obstatre de-
 bit. juris cursum subverttere & exitus & proficia que ad
 Dominum. Regem nunc inde contigere possint & ad Coron.
 suam Regiam specialiter spectant & pertinent diminuere in
 dicta Curia dicti Domini Regis nunc de Recordo ibidem ten-
 ta die Martis vicesimo sexto die Decembbris Anno Regni Do-
 mini. Caroli secundi nunc Regis Anglie. &c. vicesimo tertio
 coram prefato Jonathan Dawes Milite Aldermano uno Vice-
 comit. Civitat. predict. secund: contuetudin. Civitat. predict.
 a tempore cuius contrarii memoria homin: non existit usitat.
 & approbat levavit quandam querelam versus predict. Fran-
 ciscum St. Aubyn in placito predict. super demand. quinqua-
 ginta libra um Et ipsum Franciscum St. Aubyn pretextu
 querele predict. in forma predict. levate & affirmate per Mi-
 nistrum suum Curie predict. per bona & catalla ipsius Fran-
 cisci per Jurisdictionem Curie predict. transiuntia adiunc &
 ibidem attachiari fecisset & procurasset ipsumque Franciscum
 in eadem Curia comparere & prefato Thome Cox de &
 in premissis respondere minus juste astrinxit. Ac superinde
 postea in eadem Curia tenta duodecimo die Januarii Anno
 Regni dict. Domini Regis nunc vicesimo tertio coram pre-
 fato Jonathan Dawes Aldermano uno Vicecom. Civitat. pre-
 dict. in Guilhalda Civitat. predict. idem Thomas super quere-
 lam suam predict. narravit versus eundem Franciscum eo quod
 predict. Franciscus vicesimo quinto die Decembbris Anno Do-
 mini Regis nunc. vicesimo tertio in Parochia sancte Hellene
 London pro diversis denariorū summis per ipsum Franciscum
 eidem Thome prius debitū concessisset solvere prefato
 Thome quinquaginta libras cum inde requisitus fuisset. pre-
 dict. tamen Franciscus licet sepius requisitus. &c. predict.
 quinquaginta libr. aut aliquem inde denarium prefato
 Thome adiunc non solvisset sed illas ei solvere uqſue
 tunc contradixisset & adiunc contradixit ad dampnum
 ipsius

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ipsius Thome viginti librarum ut dixit Et inde produxit sextam, &c. Ubi revera & de facto predict. causa Actionis illius in querela & narratione predicta superius mentionat. emergebat & accrebit ejdem Thom. Cox extra predict. Civitatis. London. & extra Jurisdiction. Curie illius scilicet apud Parochiam sancti Clementis Dacorum in Comitatu Midd. & non infra predict. Civitatis. London. & Jurisdiction. Cur. illius Ac ubi revera idem Franciscus nichil tenuit de illa nec infra Franches. nec Jurisdictionem Curie illius Ac ubi revera idem Jonathan Dawes Judex Curie predict. nunquam habuit potestat. tenendi placit. predict. nec audiend. & determinand. placit. predict. sic extra Jurisdiction. Curie predict. sic ut prefat. emergen. & accrescen. per legem terre hujus regni Anglie nec virtute Literarum Patentium Domini Regis nunc nec alicujus progenitorum suorum nuper Regum vel Reginarum Angl. nec per aliquam legitim. prescription. a tempore cuius contrarii memoria hominn. non existit usitat. & approbat. Ac licet ipse idem Francisc. in eadem Curia absq; aliqua licentia interloquendi in propria persona sua placitavit ad Jurisdiction. ejusdem Curie quod causa actionis accrebit eidem Thome extra Jurisdiction. ejusdem Curie & traversavit quod causa Actionis predict. accrebit infra Jurisdiction. ejusdem Curie Ac omnia & singula per ipsum superius suggesta & allegata in ejus exoneration. in predict. Curia dicti Domini Regis nunc tenta coram prefato Jonathan Dawes duodecimo die Januarii Anno Regni dicti Domini Regis nunc vicesimo tertio apud Guilhald. Civitatis. predict. situat. in Parochia Sancti Laurentii in veteti Judaismo in Warda de Cheape in propria persona sua placitaverit & allegaverit Ac illa per Sacrament. suum verificare & Inevitabiliteritate & testimonio probare sepius obtulerit predicta tamen Jonathan Dawes Aldermanus unus Vicecom. Civitatis. predict. ejusque Deputatus Judex Curie illius placit. predict. & allegation. illam admittere seu recipere penitus recusavit & Judicium in eadem Curia versus ipsum Franciscum pro eodem Thoma in Actione predict. adtunc & ibidem redditum & intrari de Recordo causavit per defalt. tanquam predict. Franciscus nichil dixisset in barram sive preclusion. Actionis ipsius Thome predict. in dicti Domini Regis nunc contempt. & ipsius Francisci dampn. prejudicium & gravamen non modicum contra legem terre hujus regni Anglie & contra formam Statuti predict. Et hoc paratus est verificare unde idem Franciscus Auxilium & munificentiam Curie dicti Domini Regis nunc humilime implorando petit sibi remedium festinum & breve dicti Domini Regis nunc de Prohibitione predict. Jonathan Dawes ejusque in hac parte Deputato Judici Curie predict. ac cuiilibet alio Judici in hac parte competenter & unicunque necnon prefato Thom. Cox Consiliariis Attornatis

gis & Sollicitatoribus suis in hac parte quibuscumque dirigendum ipsos & eorum quemlibet ne ipsi seu eorum aliquis in causa predicta premissa predicta. quovis modo tangente in Curia predicta coram prefato Jonathan Dawes Judice Curie predicto. vel aliquo eorum ulterius procedere presumant ne quicquid amplius in ea parte coram eis vel aliquo eorum attemptent seu eorum aliquis attemptet quod in lesionem vel derogationem Corone dicti Domini Regis nunc vel in legis contemptum. vel in ipsius Francisci dampnum. aut prejudicium cedere valeat quovismodo sub Violatoris Legis Domini Regis nunc penam periculo incurriendi sed quod ab omni ulteriori prosecutione versus ipsum Franciscum in premissis in predicta Curia dicti Domini Regis nunc coram eis vel aliquo eorum penitus deficiant & quilibet eorum deficiat. Ac quod judicium predictum versus ipsum Franciscum sit ut prefertur redditum & de Recordo intratum idem Judex revocari faciat indilat. Et si quicquam amplius inde in contrarium premissorum factum sit illud eidem Francisco sine dilatione emendari faciat periculo incumbenti. Etei conceditur, &c.

BY all the said Records it appears that an Action of Debt was brought upon a simple Contract in the Sheriff's Court in London, and that the Defendant put in Bail: And because the Cause of Action accrued out of London, the Defendant before Imparlane (or he might have done it after a special Imparlane) did come in proper Person into the Court, and produced a Plea in Writing, that the Cause of Action did accrue out of London, and out of the Jurisdiction of that Court, and offered to swear the Plea to be true; whereupon the Judge of the Court in London refused to accept of the Plea, and entred Judgment. For Remedy against which Proceedings, the Defendant moved for, and obtained in the Court of King's Bench a Writ of Prohibition, directed to the Judge of the Court in London to command him to cease Prosecution upon the said pretended Judgment; but before the same could be served Carew Pearse, one of the Bail, was taken in Execution and detained until upon Motion in the King's Bench, by Consent of the Plaintiff in the Action, and of the Judge and Clerks of the Court in London, he was set at Liberty, and the pretended Judgment vacated. Then Carew Pearse being advised that the said pretended Judgment was *Coram non Judice*, and so void in it self, without any Writ of Error, or other Means to reverse the same, brought an Action of False Imprisonment in the King's Bench against the Plaintiff in the Action

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Action in London, and the Serjeant at Mace who arrested him upon the said pretended Judgment. To which the Defendants in the King's Bench pleaded the pretended Judgment in London, and the Process thereupon (as aforesaid) and so would justify the Imprisonment. To which Plea the Plaintiff *Carew Pearse*, by Replication, pleaded the Invalidity of the Judgment in London for the Reasons before set forth; and the Plaintiff in the King's Bench gave a Rule to the Defendants to rejoin in Hillary Term last past: Whereupon the Defendants in the King's Bench (one of whom was Plaintiff in London) compounded the Suit, and paid the Plaintiff in the King's Bench his Costs and Damages. Know therefore, Reader, That if any Bond or Contract, or other Action be made, or do arise out of a County where it is sued in the County-Court, or out of any Corporation or Manor, and be sued in the Court of the Corporation or Manor, the Defendant may avoid the Action by the Means before prescribed; so as he come before Impariment, or after a special Impariment in Person into Court and plead, as aforesaid (*mutatis mutandis*) and offer to swear his Plea: By which all inferior and limited Jurisdictions may be kept within their due Bounds, and may learn not to run themselves and Officers into danger of having Actions brought against them, and being forced to pay Costs and Damages for their rash and unadvised Actions.

Also by this last mentioned Writ of Prohibition, it appears, That if any inferior Court shall divide a joint Action into three or four, by entering several Plaunts of small Sums, such as the same Court can hold Plea of, and so wrongfully to give Jurisdiction to the inferior Court; the Courts at Westminster will grant a Prohibition, and release any Distress or Arrest made by or upon such illegal Proceedings; and the Procurers of such illegal Proceedings may be punished for such Offence.

The Reader may further take Notice, That in Hillary Term, in the 33d and 34th Year of King Charles the Second, in the King's Bench, between *Cholmeley* and *Morton*, which is entered in Michaelmas Term, 33 C. 2. Roll. It was declared by that Court upon Argument, That though a Defendant in an inferior Court did plead in Bar, yet if he (after that before Trial) did make Oath that the Cause of Action did arise out of the Jurisdiction of the inferior Court, and not within it, the King's Bench would grant a Prohibition: And that the same Term, in the same Court, between *Cole* and *Brantwood*, in *Colchester-Court*; and between *Strong* and *Spathurst* in the *Palace-Court* (vulgarly called the

the Marshal's Court) between Waterfall and Clerk in the Court of Burton upon Trent in Staffordshire, upon like Oath made, several Prohibitions were granted, and Prisoners delivered out of Gaol. And also that in a Cause between Fulford and Coppin, H. 33 & 34 Car. 2. Roll. 605. In a Writ of Error of a Judgment in the said Palace-Court, after a *Habeas Corpus* was tendered and disallowed (though Issue was not joined within six Weeks after the Plaintiff declared.) Error was assigned, That the Cause of Action arose out of the Jurisdiction of the Court, and not within it, and upon *In nullo est erratum* pleaded, and Argument thereupon, the Judgment was reversed in Easter Term, 34 Car. 2. As appears by the Books of Rules, and Number-Rolls of the several Terms and Years respectively above-recited.

THE

THE APPENDIX.

Anno XXVII

Elizabethæ Reginæ.

**An ACT for the good Government
of the City and Burrough of West-
minster in the County of Middle-
sex.**

The Pre-
amble of
the Act.

FORasmuch as by Erection and new Build-
ing of divers Houses, and by the Parting
and Dividing of divers Tenements within the
City or Burrough of Westminster, and the Liberties
of the same, the People thereof are greatly encreas-
ed, and being for the most Part without Trade or
Mystery are become Poor, and many of them whol-
ly given to Vice and Idleness, living in Contempt
of all manner of Officers within the said City, for
that their Power to correct and reform them is
not sufficient in Law, as in that Behalf were meet
and requisite:

Be it therefore Ordained by the Queen's most
Excellent Majestie, the Lords Spiritual and Tem-
poral, and the Commons in this present Parlia-
ment

ment Assembled, and by the Authority of the same, That the said City or Burrough of Westminster, the Liberties, Territories, and Precincts of the same, shall be, and for ever hereafter continue severed and divided, as it hath been accustomed, into Twelve several Divisions, to be called or known by the Name of Wards, the same to be and continue by such Limits, Metes and Divisions, as heretofore hath been commonly taken or known.

The City or Burrough of Westminster, and Liberties thereof, shall be divided into twelve Wards.

And for the better Ordering and Government of the People inhabiting and being within all and every the Wards aforesaid, and for repressing and Rooting out of Vice there used: Be it further ordained by the Authority aforesaid, That the Dean of the Collegiate Church of St. Peter's of Westminster, or his Successors, or the High-Steward there for the Time being, or his lawful Deputy, shall upon Thursday in Easter-week, next after the End of this Session of Parliament, and so yearly for ever hereafter, nominate and elect twelve sufficient Persons, being Merchants, Artificers, or Persons using any Trade of Buying or Selling within the said City or Burrough, or such other Persons as shall be willing thereunto, and inhabiting within the said City or Burrough, and the Liberties of the same, which shall be called by the Name of Burgesses; Unto the Government of every which Burgess, one of the said twelve Wards shall be, by the said Dean, and High-Steward, or his lawful Deputy, for the Time being, appointed and limited; which said twelve, and every of them, shall accept their Election, and shall continue in his said Roome for one Year next ensuing, and so from Year to Year during his or their natural Lives, if they shall so long inhabit there, except for some Offence or Misgovernement by them or any of them committed; (and unless for Cause reasonably proved) they shall be displaced by the Dean of Westminster, or High-Steward there, for the Time being: And if any Person or Persons

The Dean of Westminster, or High-Steward, or his Deputy, shall yearly on Thursday in Easter-week for ever, nominate and elect twelve Persons to be Burgesses.

The Qualification of the Persons to be chosen Burgesses.

The Dean and High-Steward, or his Deputy, shall appoint the Government of a Ward to every of the twelve Burgesses.

They shall accept their Election, and continue not to be

nu for one Year, and from Year to Year during Life. A Burgess removed but for Offence or Misgovernement. The Dean of High-Steward may displace a Burgess for a good Cause shewn.

resistant,

A Resistant refusing to accept the Place of a Burgess, shall forfeit ten Pounds to the Poor of Westminster.

The Bailiff of Westminster shall levy the Forfeiture by Distress.

The Burgesses shall take the Oath of Supremacy, and an Oath to execute the Powers of this Act.

And for the more Aid and Assistance to perform that which, by the true Intent of this Statute, is meant to be performed, be it ordained by the Authority of this present Parliament, That the said Dean, or his Successors, or the said High-Steward, or his lawful Deputy, with the said twelve Burgesses, or the more Part of the said Burgesses, shall, within ten Days after the Election and Choice of the said twelve Burgesses, nominate and elect twelve others, able Persons inhabiting within the said City or Burrough, and the Liberties thereof, being Merchants, Artificers, or using any Trade of Buying or Selling within the said City or Burrough, or any other being willing thereunto, as aforesaid, to be Assistants to the said twelve Burgesses; and that they shall accept the same Charge upon Payment of five Pounds, to be levied of every of them that shall refuse the said Room in Form aforesaid, to be employed as aforesaid, with like Oaths, as is aforesaid; and shall be called by the Name of Assistants unto the said twelve Burgesses nominated to the aforesaid twelve Wards; unto every of which said Wards one of the said Assistants shall be appointed for the Government of the same, with the said Burgess; which said twelve Burgesses, and the said

The Dean High-Steward, or his Deputy, with the Burgesses, shall ten Days after their Election, nominate twelve to be Assistants.

The Qualification of the twelve Persons to be Assistants.

The Assistants shall accept the Charge on the Penalty of five Pounds.

They shall take the Oaths before-mentioned, and be called Assistants to the Burgesses. To the Government of every Ward one Assistant shall be joined to the Burgess.

twelve

twelve Assistants, and every two of them, within the several Wards to their appointed and limited, (viz.) every Burgess, together with his Assistant, shall and may, by Virtue thereof, do and deal in every Thing and Things as Aldermen's Deputies in the City of London lawfully do, or may do: And every of the said twelve Assistants shall continue in their said Office for and during one whole Year then next ensuing, if they shall continue their Habitation within the said City or Burrough, or Liberties of the same: And if any of the said twelve Burgesses, or Assistants, shall happen to die, or otherwise, upon reasonable Cause, to be removed or displaced from his said Office; that then the said Dean, or his Successors, and the High-Steward for the Time being, or his lawful Deputy, shall, from Time to Time, at their Wills and Measure, nominate and appoint any other meet able Person or Persons of like Estate, Faculty and Quality, as aforesaid, inhabiting within the said City or Burrough, and the Liberties of the same, to supply the Place or Places of such of the said Burgesses or Assistants as shall so die, or be moved or displaced, who shall continue in the said Room until the Thursday in Easter-week then next following; and that such Person or Persons so nominated and elected, shall accept and exercise the same, upon Pain of five Pounds, to be levied and employed in Form aforesaid, and with like Oaths, as is aforesaid.

And shall accept and exercise the Office, on the Penality of five Pounds, and shall take the like Oaths as others.

And be it further enacted, by the Authority aforesaid, That the said Dean, and his Successors, or the High-Steward, or his lawful Deputy, for ever hereafter yearly upon Thursday in Easter-week aforesaid, shall nominate and appoint two Persons out of the said twelve Burgesses, to be called or known by the Name of the two Chief Burgesses, to continue in the Office for one Year then next following; which Office they and every of them shall accept, upon Pain of

twelve Burgesses. The two Chief Burgesses shall continue in their Place for one Year, and accept thereof, on Pain of ten Pounds to the Use aforesaid.

Each Bur-
gesse and Af-
fistant in
his Ward,
shall have
the Power
of Alder-
men's De-
puties in
London.

The Af-
fistant shall
continue in
their Office
one whole
Year, if
they live in
Westmin-
ster or the
Liberties.
Burgesses
or Assistants
dying, or
being re-
moved or
displaced,
may be sup-
plied by the
Dean and
High-Stew-
ard, or his
Deputy.

The Person
so put in,
shall conti-
nue till the
Thursday in
Easter-week
next suc-
ceeding his Choice: And shall accept and exercise the Office, on the Penality of

The Dean
and the
High-Stew-
ard, or his
Deputy
shall every
Thursday in
Easter-week
for ever, ap-
point two
Chief Bur-
gesses out
of the

The APPENDIX.

ten Pounds aforesaid, and to be levied by way of Distress to the Use aforesaid, as is before limited.

And for due Reformation of the Incontinencies and Disorders which shall or may happen within in the said City, Burrough, or Liberties, be it ordained by the Authority of this present Parliament, That as well the said Dean, or his Successors, the High Steward aforesaid, or his Deputy, as also the said two Chief Burgesses, the other ten Burgesses, or any four or three of them, whereof the said Dean, High Steward, or his Deputy, or one of the said two Chief Burgesses, to be one, from Time to Time for ever hereafter, to be appointed during their said Office, shall and may, by Electne of this Act, with in the said City or Burrough, or the Liberties there of, hear, examine, determine, and punish, according to the Laws of this Realm, or lawable and lawfull Custom of the City of London, all Matters of Incontinencies, common Scolds, and of Inmates, and common Annoyances; and likewise, that they shall have Authority to commit to Prison such Persons, as within the said City, shall offend against the Peace; and thereof shall give Notice within four and twenty Hours after to some Justices of Peace within the County of Middlesex.

They may commit to Prison such as offend against the Peace; But to give Notice to some Justice of Middlesex in twenty-four Hours.

All Ordinances to be made for the Government of the Inhabitants, nor repugnant to the Protagonative of the Crown, or the Laws of the Realm, shall be of Force.

And be it further enacted by the Authority aforesaid, That all good Orders to be made by the said Dean and High Steward, with the Assent of the Burgesses and Allasses for the Time being, or the moze Part of them, for or concerning the Government of the said Inhabitants, not repugnant to the Queen's Majelty's Protagonative, nor the Laws and Statutes of this Realm, shall by Electne of this Act, stand in full Force and Strenght.

The APPENDIX.

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Provided, That this Act, or any Thing therein contained, shall not be prejudicial to the Steward, Marshal, or Coroner of the Queen's Majesty's Household, nor to the Authority of Justices of the Peace within the County of Middlesex, nor to the Dean and Chapter of Westminster, or their Successors, nor to the High-Steward there, or his Deputy, for the Time being, nor to the Mayor, Society, and Clerk of the Staple, High-Constable, Bailiff of the Liberty, Town-Clerks, nor to the Clerk of the Market, nor to any Search to be made by any other Officer in the said City or Burrough of Westminster, now being, or that at any Time shall be, not being contrary to the true Meaning of this Act.

The Act
shall not
prejudice
the Mar-
shal of the
Queen's
Household,
nor the
Steward, or
Coroner
thereof ;
nor the Au-
thority of
Justices of
the Peace
of Middle-
sex ; nor
the Dean of
Westmin-
ster, nor

the High-Steward or his Deputy ; nor the Mayor or Clerk of the Staple, High-Constable, Bailiff of the Liberty, Town-Clerks, nor Clerks of the Market. The Act shall not prejudice no Search to be made by any Officer in Westminster, not contrary to this Act.

And be it declared by the Authority of this Act, That they, and every of them, their Deputies and Assigns, shall and may have take and enjoy all the Privileges, Authorities, Benefits, and Profits, unto them, or their said Office belonging, from Time to Time, for ever hereafter, in as ample wise, as they or any of them have had, taken and enjoyed the same at any Time heretofore, not being contrary to the true Meaning of this present Act.

The Offi-
cers before,
mentioned
and their
Deputies,
may enjoy
all their
Rights, in
as ample
Manner as
heretofore,
it the same
be not con-
trary to
this Act.

If the Dean,
&c. be re-
miss in chus-
ing Burges-
ses, two Ju-
stices of
Middlesex
may choose
them.

Provided always, That if it shall happen at any Time hereafter, that the Dean of Westminster aforesaid, or his Successors, and the said High-Steward, for the Time being, and his lawful Deputy, and every of them, be remiss or negligent in chusing and nominating of the Burgesses aforesaid, at the Time before limited, That then it shall and may be lawful for two Justices of the Peace within the County of Middlesex, whereof one to be of the Quorum, to nominate and chuse the said Burgesses, being such Persons as aforesaid ; who being so nominated and chosen by the said Justices, shall occupy and enjoy the said Rooms, upon the Pains

I i 2 aforesaid,

Burgesses chosen by Justices, have such Liberties as those chosen by the Dean, &c. Persons chosen in the Rooms & others, shall not be compelled to serve more than one Year. Persons refusing to be Burgesses, and paying the sum therefore imposed, shall not be nominated in 5 Years.

The Chancellor or Steward of the Duchy of Lancaster, shall have like Power as the Dean of Westminster, &c. within the Duchy-Liberty.

The Act nor to extend to the College or Chuse of Westminster,

aforsaid, and have and enjoy such Liberties, in all Respects, as if they had been nominated and chosen by the said Dean and High-Steward, as aforesaid.

Provided also, That all such Burgesses, as aforesaid, which hereafter shall be chosen, as aforesaid, to serve in any of the said Rooms or Places, shall not be compellable by this Act, to remain in the said Office or Room, above the Space of one whole Year next after such Choice or Election: And all such Persons as shall, for Refusal of any of the said Offices, pay any the Summ aforesaid, shall not be nominated again to any of the said Places, within the Space of five Years then next following.

And forasmuch as there be divers Houses, Tenements and Buildings, within the Liberties of the Duchy of Lancaster, of the which said Houses, Tenements and Buildings there are certain, which are lying and being within the City or Burrough of Westminster, and divers of the same are next adjoining to the said City or Burrough, and yet the Inhabitants within the said Liberties of the said Duchy are not subject to the Government or Jurisdiction of Westminster, but have Liberties and Franchises distinct and divided by themselves; and to the Intent that one uniform Government may be in both the said Liberties of Westminster, and the Duchy in the Places aforesaid: Be it enacted by the Authority of this present Parliament, That the Chancellor or Steward of the Duchy, for the Time being, shall have the like Power and Authority, by Virtue of this Act, in all Things, as the Dean of Westminster, and the High-Steward of the same, have by Virtue of this Act, for the better Government of the Inhabitants within the Liberties of the said Duchy, being and next adjoining to Westminster, as is aforesaid.

Provided always, That this Act, or any Thing or Matter therein contained, shall not extend to the Church or College of Westminster, nor

for any Offence within the Circuit thereof.

to the Close of Westminster, nor to any Person or Persons inhabiting within the Site, Circuit, or Precinct of the said Church, College or Close, for any Offence or Misgovernment to be committed by them, or any of them, within the Site, Circuit, or Precinct of the said Church, College, or Close, or City, or Burrough of Westminster: And that this Act, nor any Thing therein contained, shall not extend to give any Authority, Jurisdiction, or Power to the said Burgesses, to hear, examine, and determine any Thing by Virtue of this Act, without the Consent of the said Dean, or of the said High-Steward, or his lawful Deputy, or in the Absence of the said Dean, High-Steward, or his lawful Deputy, then with the only Presence and Consent of the Town-Clerk there, for the Time being, and not otherwise.

And this Act to continue unto the End of the Parliament next following.

Provided also, That the Searcher, for the Time being, of the Sanctuary of Westminster, shall have and enjoy, within the Sanctuary of Westminster, the Execution and Serving of all Process, Command-menes, and Warrants, and the Attachments, and Apprehensions of all Manner of Offenders within the Sanctuary aforesaid, and within the Site, Circuit, and Precinct thereof, in as ample Manner and Form as if this Act had never been had or made.

The Burgessess shall not hear or determine any Thing with ut the Dean or High-Steward, or his Deputy, or the Town-Clerk in their Absence.

The Searcher of the Sanctuary shall have Execution of Process within the Sanctuary, as he might do before the making of this Act.

The Act was continued in *Anno 31 dictæ Regine Elizabethæ, cap. 10.* to the End of the Parliament then next ensuing.

And 35 ejusdem Regine, cap. 7. to the End of the Parliament then next ensuing.

And 39 ejusdem Regine cap. 18. to the End of the Parliament next ensuing.

And 42 ejusdem Regine, to the End of the first Session of the next Parliament.

And in *Anno primo Jacobi Primi Regis, cap. 25.* to the End of the first Session of the next Parliament.

And 21 dicti Regis Jacobi, cap. 28. to the End of the first Session of the next Parliament.

And in *Anno tertio Caroli Primi, cap. 4.* to the End of the first Session of the next Parliament.

The APPENDIX.

And in 17 eijusdem Regis, in a certain Act for granting two Subsidies, for the further Relief of His Majesty's Army,

It was enacted, That all Statutes and Acts of Parliament which have their Continuance, or were by an Act of Parliament made in the third Year of his Majesty that now is, Entituled, An Act for the Continuance and Repeal of divers Statutes, continued until the End of the first Session of the then next Parliament, shall, by Virtue of this Act, be adjudged, ever since the Session of Parliament in the said third Year, to have been of such Force and Effect, as the same were the last Day of that Session, and from thenceforth until some other Act of Parliament be made, touching the Continuance or Discontinuance of the said Statutes and Acts, in the said Act of the third Year of His Majesty's Reign contained, as aforesaid.

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